

Item 11.a October 21, 2010 Investigative Report from Robert D. Soloff, Esquire

This is the complete report that includes the e-mails and other documents referenced in the investigative report. It includes:

1. The Investigative report dated 10/21/2010
2. The Manager Complaint, Village Attorney Direction and Vice Mayor Response
3. Marilu Manso e-mail dated April 8, 2010
4. Manager time sheets (3) from Vice Mayor
5. ARRA Grant Packet from Clerk
6. Vice Mayor Public Records Request Related Packet from Clerk
7. Commissioner Bernard Evaluation of Manager and E-Mails of 8/22/10 and 8/24/10
8. Additional E-Mails referenced in the Investigative Report

INVESTIGATIVE REPORT

TO: John J. Hearn, Esquire, Village of Biscayne Park
FROM: Robert D. Soloff, Esquire
RE: Investigation of Complaint of Village Manager Ana Garcia
DATE: October 21, 2010

1. INTRODUCTION

I was retained as special legal counsel to investigate the complaint by Village Manager Ana Garcia dated July 26, 2010 concerning Vice-Mayor Bryan Cooper. The purpose of my investigation of the Manager's Complaint was to interview those involved, to obtain relevant information, to render findings and, as appropriate, to make recommendations. Copies of documents relied upon are attached as Exhibits.

2. THE COMPLAINT, INVESTIGATION AUTHORIZATION AND BACKGROUND

On July 26, 2010, Village Manager Ana Garcia submitted an e-mail to Village Attorney John Hearn, Esquire complaining of a hostile work environment created by Vice-Mayor Bryan Cooper. E-mail Complaint by Village Attorney Manager dated July 26, 2010. Specifically, the Manager alleged that Vice-Mayor Cooper's communications were threatening or derogatory. According to the Manager, as a result of an incident the prior Friday, she decided to write the e-mail to the Village Attorney in which she stated that Vice-Mayor Cooper was taking her and the Village Clerk away from work they should be doing and that his "mental torture of innuendos and perceptions" have prevented her from performing necessary work for the Village. According to the Village Manager, she has called, sent e-mails and made every attempt to discuss anything the Vice-Mayor desired to better serve the Village and its residents. Specifically, the Manager said that she had been told by Lynn Fain, an employee with Miami-Dade Transit, that the Vice-Mayor said, "I am going after her," referring to the Manager. According to the Manager, Vice-Mayor Cooper had an issue with her recommendation of the ARRA grant and had been intimidating to the Clerk. The Manager stated Vice-Mayor Cooper could not be satisfied, and she expressed concern that continued efforts to satisfy Vice-Mayor Cooper "will basically prevent us from running the daily operations of our Village." The Manager concluded her e-mail with a request for direction from the Village Attorney.

In response, the Village Attorney, by e-mail dated July 28, 2010, advised the Manager that he did not have authority under the Village Charter to investigate allegations regarding a Commissioner, and advised the Manager that this matter must be directed to the full Commission to obtain their direction. On August 2, 2010, the Village Manager sent an e-mail to all Commissioners forwarding her July 26 e-mail, and, further, advising that on Friday, July 23, 2010 during a meeting with the Clerk, after Vice-Mayor Cooper had expressed his dissatisfaction with not being provided with the Code Review revisions, he said he would be contacting the State Attorney's office. Again, in this e-mail, the Village Manager emphasized that there was nothing that she could do to satisfy Vice-Mayor Cooper.

A. Vice-Mayor Cooper's Response to the Village Manager's Complaint.

In response, Vice-Mayor Cooper wrote an e-mail on August 2, 2010, in which he denied his alleged statement to Ms. Fain, confirmed that he intended to contact the State Attorney's office, advised that he was prepared to meet with an independent attorney investigating the allegations, and advised that he was providing a copy of his e-mail to Ms. Fain and to Robert Myers of the Miami-Dade County Ethics Board.

B. Authorization of Investigation.

Thereafter, the Commission authorized an independent investigation of the Village Manager's complaint. I was engaged by the Commission to investigate the allegations in the Manager's Complaint, to interview all individuals as deemed appropriate, to take any other investigative actions which I determined relevant and necessary, and to provide a report of my investigation. The cost of the investigation was not to exceed \$5,000. The Village Attorney confirmed my engagement to perform this investigation by e-mail dated August 11, 2010, which was provided to all Commissioners and the Manager. Subsequently, the Village Attorney contacted me to inquire as to the cost of reviewing Vice-Mayor Cooper's allegations concerning a former Finance Department contractor and related allegations. I advised the Village Attorney that I would look into those allegations without exceeding the \$5,000 cap on the investigation, and include such issues as I determined were relevant to the investigation.

C. Vice-Mayor Cooper's Subsequent E-Mails Regarding the Investigation.

In response to the Village Attorney's notification of my engagement, Vice-Mayor Cooper wrote an e-mail dated August 12 complaining that the Village Attorney's e-mail confirming the investigation failed to include direction to investigate allegations concerning the Manager, which Vice-Mayor Cooper had raised. Also, Vice-Mayor Cooper stated, "If it is your intent that this be a one-sided investigation, and that you are taking direction from the majority of the Commission as to a singular direction of this investigation, I would like to be advised in advance." In his August 12 e-mail response,

the Village Attorney explained the investigation was not limited only to wrongful allegations against Vice-Mayor Cooper, but also included follow-up on any relevant, related allegations.

During the course of the investigation, Vice-Mayor Cooper continued to send e-mails to the Village Attorney challenging the scope of the investigation and demanding that the investigation include an evaluation of the Manager's performance. For example, the Vice-Mayor asked various questions about the Manager's evaluation, stated that he could not meet with the Manager without an independent witness, and, asked what was being investigated under State law which could be considered a "chargeable offense" (apparently meaning a "criminal violation"). E-mail from Vice-Mayor Cooper to Village Attorney dated August 26, 2010. In his August 28 response, the Village Attorney explained that the investigation and the Manager's evaluation were separate matters, and that the investigation did not include any "chargeable offense."

Despite the Village Attorney's explanation that the Manager's evaluation and the investigation were separate issues, Vice-Mayor Cooper wrote an August 30 e-mail stating that he believed the Manager's allegations were the result of his use of the Sunshine Law to obtain information and that "looking at ALL e-mails shows that the larger issue is indeed the evaluation of the Manager." In conclusion, the Vice-Mayor stated that the Village Attorney's explanation that the allegations of the Manager and her evaluation were separate matters "might necessitate bringing forth the larger allegations against the manager so all see the real picture."

On September 2, 2010, Vice-Mayor Cooper sent an e-mail to the Village Attorney, which he copied to all Commissioners, the Manager and the Clerk. In that e-mail, he identified a former Village contractor ("staff member") who had provided specific complaints regarding the Manager, and wrote, "Clearly, we need to research more fully with the remaining Village Staff, who have been named as witnesses to the allegations said to occur in Village Hall." Vice-Mayor Cooper then listed 5 specific issues identified by the former staff member, and concluded by stating:

I trust that the attorney we hired will take information on these allegations as they are directly related to occurrences from before April to the present. Only then, I feel, will we be able to move forward for final discussion with the Manager, and in the context of contract discussions.

E-mail from Vice-Mayor Cooper to Village Attorney dated September 2, 2010. Also, Vice-Mayor Cooper sent an e-mail to me requesting that I obtained Commissioner Bernard's recent evaluation of the Manager.

D. Obtaining Background Information.

Prior to initiating interviews, I spoke with Village Attorney John Hearn and obtained background information, the names and positions held of those referenced in the Manager's complaint, as well as the recent election history regarding the Village Commission. Also in preparation for interviews, I reviewed related e-mails, the Village website and relevant portions of the Village of Biscayne Park Charter.

3. INTERVIEW SUMMARIES AND INFORMATION RECEIVED

I met or spoke privately with all individuals identified below. Also, I had follow-up calls and e-mail communication with the Manager, Clerk, Vice-Mayor and Village Attorney to obtain additional information and clarification or follow up information.

A. Village Manager Ana Garcia.

Ana Garcia was appointed as Manager by the Village Commission in October 2010, as the second Village Manager. The previous Manager held the position for 3 years; prior to that there had been a Commission form of government. The Manager explained that after the election of December 3, 2009, the majority of the Commission changed, and that there has been a "3 to 2" split Commission, with Vice-Mayor Cooper and Commissioner Bernard typically in the minority. As Manager, she is a Charter employee appointed by the Commission. Charter, §3.01. The Village Manager is responsible for "the administration of all Village affairs and for carrying out the policies of the Commission." Charter, §3.01(A). One of the Village Manager's responsibilities is to appoint the Clerk who is responsible for giving notice of Commission meetings, maintaining minutes, and performing other significant responsibilities as directed by the Manager. Charter, §3.01(C)(10).

The Manager identified 2 matters which had caused friction between her and Vice-Mayor Cooper. Specifically, the American Resource and Recovery Act ("ARRA") grant for shoulder striping on Village roads, and the Florida Power and Light ("FPL") Franchise Fee renewal. The Manager provided background on the Village's finances and recent budgetary pressures. She also provided specific details regarding the events leading up to the Clerk's meeting with Vice-Mayor Cooper on July 23, 2010 which gave rise to her complaint, and provided me with a highlighted copy of the Village Charter and numerous e-mails she believed to be relevant.

The Manager advised me that she believed the Vice-Mayor's request made directly to the Clerk was improper under the Charter which prohibits the Commission members from giving "orders directly to any such [Village] officer or employee, either publicly or privately." Charter, §4.02 (B) (2).

B. Village Clerk Maria Camara.

The Clerk is a long time resident of the Village; as a resident she was (and remains) the Village Web master. She was hired as Village Clerk on January 18, 2010.

The Clerk explained that after receiving Vice-Mayor Cooper's June 18, 2010 e-mail requesting "unlimited access to all village files", she responded to all of his questions, which included many inquiries, and follow up inquiries, regarding stored Village documents. The Clerk provided details of her July 23 meeting with Vice-Mayor Cooper and a City resident, as discussed below, as well as her follow up meeting with Vice-Mayor Cooper on August 12,. Also, she provided me with organized e-mail packets concerning the ARRA grant and the Vice-Mayor's request for information, discussed in detail below.

C. Vice-Mayor Bryan Cooper.

I met with Vice-Mayor Cooper, explained the investigation was based on the Manager's complaint as reflected in her July 26 e-mail, asked questions about the allegations made by the Manager and provided him with the opportunity to provide me with any information and documents in response to the Manager's complaint. He provided background information regarding the ARRA grant. According to Vice-Mayor Cooper, he understood the scope of the grant could not be changed and that the new Commission in December 2009 had directed the Manager to determine if the scope could be changed. Vice-Mayor Cooper stated that he told Lynn Fain that the scope of the ARRA grant could not be changed based on Federal rules. In response to the Manager's allegations that he stated to Lynn Fain that, "I am going after her" (referring to Manager), Vice-Mayor Cooper said he did not recall making that statement. He denied the Manager's allegation that Lynn Fain said Mr. Cooper had stated at a meeting that the former Manager "was on mental leave."

According to Vice-Mayor Cooper, there is a pattern in the Manager making things up, and she has acted unprofessionally. Vice-Mayor Cooper explained that his problems with the Village Manager began in early March when he learned that a storm water project (over \$100,000) had been entered into without a competitive bid. When the Vice-Mayor asked the Manager about this project, she became agitated and asked the Clerk to join their meeting. The Vice-Mayor said that if the Manager did not listen to his concerns, he would have to raise it with the Commission. According to the Vice-Mayor, in response, the Manager stood up, swaggered, raised her finger as if to mark a "score", and said, "I got you. See Maria, he threatened me." Vice-Mayor Cooper then left Village Hall, and determined that if the Manager would not listen to him, he would bring any issues directly to the Commission.

Another incident occurred before Easter at the Village Egg Hunt when the Manager was speaking with the Vice-Mayor and the Mayor came up to them. According to Vice-Mayor Cooper, the Mayor interrupted his conversation. Vice-Mayor Cooper stated this has happened several times and, therefore, he does not engage in private conversations near the Mayor.

Regarding the FPL Franchise Renewal, Vice-Mayor Cooper said he believes it is beneficial if a Manager can present both sides of an issue and he asked the Manager if she could be more balanced on this issue. He did not meet with the Manager alone on this issue, because of her conduct at his meeting with her concerning the storm water project.

Vice-Mayor Cooper believes the Manager favors other Commissioners, and because of his concerns about meeting with her, he limits his communications with her to e-mails, as much as possible.

As background to the issues concerning his desire to obtain public records without prior description or identification of the records, Vice-Mayor Cooper explained that numerous concerns were raised to him by Marilu Manso, who had been a Finance Clerk contractor with the Village. On April 8, 2010, Ms. Manso sent an e-mail to the Manager advising she was no longer providing services to the Village, effective immediately. She sent a copy of her e-mail to all Commissioners. In her e-mail, to the manager, she stated, "I have irreconcilable differences with your management style and feel that your decision and actions will ultimately jeopardize the ethics and integrity of the Finance Department."

Subsequently, Vice-Mayor Cooper spoke with Ms. Manso two times. She advised him of the following concerns: (1) improper transfer of money from Sanitation Fund to General Fund to pay an employee's salary; (2) the Manager failing to follow Personnel Rules for her own vacation and leave time; (3) the Manager pressuring an employee to write a memo to Commissioner Bernard with incorrect information; (4) abusive behavior by the Manager; and (5) the Manager did not follow the policy that all employees must take vacation time. See Vice-Mayor Cooper's August 30 e-mail. Particularly troubling to the Vice-Mayor were the allegations that when Ms. Manso tried to record the Manager's vacation and leave time on her time cards, the Manager told Ms. Manso not to change her time cards.

Based on these allegations, Vice-Mayor Cooper decided to investigate, and he sent an e-mail to the Clerk on June 18, 2010, to advise he needed to obtain records. He said that he did not want to identify any records because he was afraid the records could "disappear or be changed" based on residents telling him that when they had requested records, those records could not be located or produced.

After some delay, he had his first meeting with the Clerk on July 23, 2010, along with a Village resident. The Vice-Mayor asked for a "red lined" draft of the revised Village Code and minutes from the Code Review Committee. The Clerk advised she did not have them, and due to his concerns about obtaining public records, he said to the Clerk that the lack of records "makes me feel like going to the State Attorney."

In his second meeting to obtain public records on August 12, 2010, the Vice-Mayor did not obtain all of the information he wanted, but believes he will be able to obtain all necessary information. He continues to have concerns about obstruction of access to public records. Also, he said that Ms. Manso's complaint raised a larger issue about the Manager not performing her job properly or ethically, failing to report her vacation time in violation of Personnel Policy, and not following Village Personnel Policies requiring employees to take vacation time.

Specifically, in his public records search Vice-Mayor Cooper obtained 3 Time Sheets of the Manager which, he said, established that she took one day as vacation time which was not recorded, another day as administrative leave which was "questionable," and a third day for Bereavement leave, all of which were, are in violation of the Village Personnel Rules and Regulations covering leave policies. Copies of these 3 Time Sheets are attached.

Vice-Mayor Cooper said he believes the Manager has taken sides against him, and also against Commissioner Bernard because of their insistence for accountability of the Manager. Also, Vice-Mayor Cooper believes the Manager tried to "set him up" as evidenced by the meeting regarding the sewer contract, her claim of his statement to Lynn Fain that he was out to get her and her e-mail to him implying that he directed the Clerk to obtain public information in violation of the Village Charter prohibition against Commissioners directing employees. As a follow-up, Vice-Mayor Cooper requested that I spoke with Marilu Manso; later he also requested that I obtain and review Commissioner Bernard's August 31, 2010 evaluation of the Village Manager.

D. Former Village Finance Contractor Marilu Manso.

At the suggestion of Vice-Mayor Cooper, I contacted Marilu Manso and spoke with her regarding her leaving the Finance Clerk position and her concerns about the Village Manager. Ms. Manso told me she began performing Finance Clerk services for the Village in January 2008 for several months, then left and returned in August 2008; she then worked as a contract worker from October 1, 2009 to April 7, 2010 working about 30 to 35 hours per week. She told me that she had wanted to leave her position earlier (at the end of 2009), but had continued in order to assist the Village. Ms. Manso explained that she left the Village because of concerns reflected in her April 7, 2010 e-mail, which she forwarded to all Commissioners, and that she subsequently met or

spoke with the Mayor and all Commissioners, including two conversations with Vice-Mayor Cooper. She identified to me four specific concerns: (1) the transfer of money from the general fund to sanitation; (2) the Manager's failure to follow the Employee Handbook which required employees to take vacations; (3) abusive treatment by the Manager; and (4) the Manager recording time at work when she was out of the office (specifically, Christmas Eve and New Year's Eve) and receiving pay for a day the Manager had taken off in late March or early April. Ms. Manso provided detailed information regarding her concerns, and identified the following example of the Manager's abusive behavior: a week before she left, in response to Ms. Manso's concerns over a memo regarding required vacation time for employees, and in the presence of two police officers, the Manager said to her, "Down girl, down," as if she were a dog. She told me that she believed the Manager lacked an understanding of administrative and finance issues concerning the Village. In response to my questions, Ms. Manso told me that she had no issue and no concerns regarding the Manager taking, removing or altering any public documents, other than the issue noted above regarding the Manager's time card. She did not recall any issue regarding a Code Officer.

E. Lynn Fain.

I called Lynn Fain, but she refused to speak with me and directed me to call an Assistant Miami-Dade County Attorney. I called and spoke with the Assistant County Attorney, explained my engagement and scope of investigation on behalf of the Village and, as requested, sent an e-mail to him explaining generally the questions I wished to ask Ms. Fain. On October 20, 2010 at about 3:00 p.m., I received a call from Lynn Fain, who spoke with me on a speaker phone with her supervisor present. I explained to her that I was performing an investigation for the Village and wanted to ask her some questions. She agreed to answer my questions.

Ms. Fain is employed by Miami-Dade Transit and is responsible for coordinating grants for the ARRA with municipalities in Miami Dade County, which included the Village grant. She said working on the Village grant had been difficult she explained that she had a couple of telephone conversations with Vice-Mayor Cooper before his election to office regarding the Village grant which she said were not very productive, and Mr. Cooper advised he would no longer speak with her and would only communicate with her supervisor. Ms. Fain said that at a meeting in which she expected the former Manager, she asked, Mr. Cooper where the Manager was, and he replied, "On a Leave of Absence." Later, after her supervisor had retired, at a public meeting Mr. Cooper told her he would need to communicate with her in the future regarding the ARRA grant, and that they proceeded on cordial terms.

Ms. Fain told me she had met twice with the Manager and the Clerk to discuss the ARRA grant. In response to a direct question about the Manager's allegation the Vice-Mayor had said, "I am going after her," (referring to the Manager) Ms. Fain said that Vice-Mayor Cooper had not said that, or any words like that, to her.

F. Additional Information Reviewed.

Additional information which I reviewed included e-mails from Commissioner Bernard, which were provided to me by the Village Attorney. The first e-mail, dated August 2 concerned the Manager's July 30 e-mail to Vice-Mayor Cooper, and copied to the Commission, regarding the Vice-Mayor's request for information. Commissioner Bernard's second e-mail, dated August 24, 2010 addressed various concerns regarding the Manager, her complaint and the Manager and/or Clerk's response to Vice-Mayor Cooper's request for records. At the request of Vice-Mayor Cooper, I also obtained and reviewed Commissioner Bernard's August 31, 2010 performance evaluation of the Village Manager. Also, I received from Vice-Mayor Cooper 3 of the Manager's Time Sheets, discussed above.

4. ISSUES

A. The ARRA Grant.

Before his election to the Commission, Mr. Cooper wrote a grant proposal for the Village concerning a project for "shoulder striping" which included narrowing certain street striping and adding a 3 foot wide bicycle lane. On October 3, 2009, Mr. Cooper wrote an e-mail to the Manager in which he criticized her actions in several matters and advised that he would "be contacting DERM to set up a meeting ... to discuss a number of issues concerning what's been happening here in the village (as I've advised you of in our first meeting)." E-mail from Bryan Cooper to Manager, October 30, 2009. On October 28, 2009, the Village Commission addressed the ARRA grant, heard various testimony, considered numerous issues concerning the grant, and voted 3 to 2 to turn down the grant. Minutes, Special Commission Meeting and Joint Meeting with Pathways Ad Hoc Committee, October 28, 2009.

After the current Commission was elected in December, Vice-Mayor Cooper brought a Motion to Reconsider the ARRA grant, which passed 3-2 at the December 8, 2010 Commission meeting. Excerpt of Minutes of Commission Meeting, December 8, 2009. The Manager then followed up on the ARRA grant, and in a December 16, 2009 e-mail advised the Commissioners that the Village could submit a project scope change, and still had time to approve and sign the ARRA grant in January.

In response, on December 17, 2009, Vice-Mayor Cooper wrote a lengthy e-mail expressing his concerns over the recommended scope change to the ARRA grant,

which concluded with the assertion that he had been advised "outright false information" had been presented intentionally by members of the Ad Hoc Pathways Committee and "this could be an ethics/charter violation with county & state action pending the direction of the final outcome" which could "be a visible tainting of government process that started us toward this suggested scope change - - instead of working toward a plan already approved the FTA Atlanta, etc." He continued with another lengthy e-mail on December 22, 2009, with additional information to support the ARRA grant as he had written, noting that he "had 10 or so people sign on to the plan of creating safer roadways even before I decided to run [for Village Commission]." Also, the Vice-Mayor wrote a December 17, 2009 e-mail, asked for the Manager's support for a project, and wrote that if the Manager did not support his position, "division will only deepen I fear. But if you express strong leadership to find the money for all components, we'll be off to a great start to overcoming the past."

Due to liability and other concerns, the new Commission addressed the grant on January 12, 2010. At the Commission meeting, the Manager reported she had discussed changing the scope of the grant with the Miami-Dade Transit. Vice-Mayor Cooper brought a motion to sign the interlocal agreement, and to later discuss how to use the funds. That motion lost in a 3 to 2 vote. Commissioner Anderson then made a motion to accept the Manager's recommendation to change the scope of the project, which passed in a 3 to 2 vote. Excerpt of Minutes of Commission Meeting, January 12, 2010. The day following the Commission vote to change the scope of the ARRA grant, on January 13, 2010, Vice-Mayor Cooper wrote an e-mail to the Village Attorney claiming the Manager had told him the Village Attorney had advised her "it was better to not create the road shoulder/greenway than to do it ... I was a bit shocked at this ..." The Vice-Mayor then asked if the Village Attorney was "charging the village for my questions" regarding legal issues, and concluded by stating that he "might seek outside legal assistance that can be delivered pro-bono." In response, later on January 13, 2010, the Village Attorney wrote back explaining his sole focus regarding the project concerned liability and the Village's future ability to maintain the project. He also explained he did not bill the Village for all of his time, noted his 20 years of practice and highest possible attorney ranking, mentioned his personal connection to the Village and explained his job was to provide "the best legal advice and protection" to the Village.

The Village Manager and City Clerk met in April 2010 with Lynn Fain of Miami-Dade County Transit, the office responsible for administering the ARRA grant. She advised that the scope of the grant to the Village could not be changed because the application had been received and the project could be approved as written, or it could be voted down and a letter sent to the County. According to the Manager (and the City Clerk), Ms. Fain advised them that Vice-Mayor Cooper had called her boss, threatened her job and said he would be going after the Village Manager.

On May 3, 2010, Vice-Mayor Cooper wrote an e-mail to the Manager requesting that she provide an update on the status of communication with Lynn Fain regarding the grant. At the May 4th Commission meeting, the Manager explained the ARRA grant status and that Miami-Dade County had advised the scope could not be changed. Vice-Mayor Cooper stated that it was his understanding based in his personal discussions with the County that the grant could be changed, as long as there was no change to the original scope regarding connecting two transit points. The Commission decided to move the item to the next Commission Meeting. Excerpt of Minutes of Commission Meeting, May 4, 2010.

After the Commission Meeting, the Manager forwarded her May 5, e-mail to Lynn Fain to Vice-Mayor Cooper who responded in a May 7 e-mail requesting very specific answers to details about the ARRA grant and possible changes. The Manager reported to the Commission at its May 12 meeting that she had followed up with Lynn Fain, and again had been told that the original ARRA proposal could not be changed. Again, Commissioner Cooper said he did not agree, and said he would contact Lynn Fain directly if he did not believe the information received was correct. Excerpt of Minutes from Commission Meeting, July 12, 2010.

The Manager followed up and, along with the Village Clerk, met with Lynn Fain on May 14, 2010, and scheduled a conference call on the ARRA grant for May 20, 2010, which later was held to discuss the issues regarding the change in scope to the plan. The information obtained was sent by e-mail from the Clerk to the Commission on May 20, 2010. An additional meeting was held with the Miami-Dade Project Manager for the ARRA grant in which he advised that the Village could proceed with the original plans for the route, or a different route that maintains the original scope, but regardless the Village must obtain an engineering consultant to provide a cost estimate. This information also was sent by e-mail from the Clerk to the Commission. In response on May 27, Vice-Mayor Cooper wrote an e-mail to the Manager, Clerk, City Attorney and Lynn Fain requesting contact information for the Miami-Dade Project Manager for ARRA grants, said he had "fact finding" to do, and concluded, "I surely hope that we are not interpreting wrongful mandates that will be used to set up yet another roadblock to this grant that has been approved."

On June 8, the Manager provided updated information to the Commission which she had received regarding the ARRA grant. Commissioner Bernard brought a motion to approve the grant, which failed by a 3 to 2 vote, Commissioner Bernard and Vice-Mayor Cooper voting in favor. As a result, the Mayor directed that a letter be written to the County opting out of the grant. Excerpt of Minutes of Commission Meeting, June 8, 2010. On June 11, 2010, the Mayor signed the letter to Miami Dade Transit opting out of the ARRA grant.

B. The FPL Franchise Fee.

FPL provides the Village with \$135,000 a year in franchise fees, through monthly payments. In March 2010, in preparing for the budget for the following fiscal year the Manager had concerns because the projected reduction in the Villager's property assessment will lead to reduced property tax revenue, and due to the Police Department's expenditures in the first quarter which were over-budget due to overtime, as well as significant legal fees involving to 2 arbitrations regarding the Police Department. Based on the Village's upcoming financial constraints, the common use of FPL by municipalities throughout South Florida, as well as the need for such payments from FPL, the Manager recommended a renewal of the FPL Franchise fee to the Commission. Vice-Mayor Cooper wrote several e-mails for the Manager and the Village Attorney explaining his research and asking questions about how the Village itself could collect the franchise fee, use Village trash collectors to read election meters and, in response to an expert's opinion that the Village review the FPL Franchise fee, Vice-Mayor Cooper wrote an e-mail stating the expert was misinformed, lacked knowledge of Village issues, challenging his recommendation and, in conclusion, that the Manager failed to provide "equal time" meeting with each Commissioner. E-mail from Vice-Mayor Cooper to Manager Clerk and Village Attorney, April 4, 2010.

The Manager recommended renewal of the FPL Franchise Fee agreement, Vice-Mayor Cooper voted against it, and the Commission voted to renew the FPL Franchise Fee.

C. The Request for Records.

On June 18, 2010, the Vice-Mayor wrote an e-mail to the Clerk requesting to meet with her and to provide him with "unlimited access to all Village files and records for a period of about 1 hour, for my personal research..." Also in his e-mail, the Vice-Mayor requested to be advised of "any files that are in storage" and requested details about all Village files in storage. The Manager was not provided a copy of the Vice-Mayor's e-mail, and was not advised by the Vice-Mayor of his request, prior to his sending the e-mail. The Clerk advised the Manager of her receipt of the Vice-Mayor's e-mail request.

On July 23, 2010 at 5:30 p.m., Vice-Mayor Cooper met with the Clerk, along with a Village resident. Initially he asked the Clerk for a copy of a "red-line" or modified Code that was under review by the Code Review Board and the Board's minutes. The Clerk advised the Vice-Mayor that she did not have the red-lined code. In response, Vice-Mayor Cooper stated that was not right and that was something to take to the State Attorney's Office. The Clerk explained the Code Review Board had the red-lined Code and minutes, and that she could obtain them and provide them to the Vice-Mayor; they were provided to him the following week. Also, Vice-Mayor Cooper asked for the Personnel Policies & Procedures Manual, which was provided. He also asked the Clerk

to run reports on the finance computer system (HTE), but the Clerk advised only the Finance Director and Finance Clerk could run reports, and the Clerk had not stay late because of the possible storm. The Clerk asked the Vice-Mayor to identify what information was needed, so the Finance Clerk could obtain that information. Vice-Mayor Cooper insisted that he be present personally to make his requests and to receive the information and documents. After the Clerk reported the Vice-Mayor's comments regarding the State Attorney's office to the Village Manager, she decided that she had to file her complaint because the Vice-Mayor had interfered with the Manager's authority under the Village Charter to direct the Clerk and other Village employees, as well as had made constant demands of the Manager and Clerk interfering with their ability to perform their job responsibilities. See Village Charter, §3.01(c)(10).

As a follow up to the meeting, the Clerk wrote an e-mail on July 28 to Vice Mayor Cooper and advised that, per the Village Attorney, his request to run reports from the HTE system was outside the normal guidelines of a public records request and, therefore, would have to be discussed by the Commission. In response, Vice-Mayor Cooper wrote an e-mail on July 28 to Robert Myers of Miami-Dade County Ethics Commission claiming that he had received advice from the Village Attorney that he did not have to provide a written request for public records. Also, the Vice-Mayor claimed that the cancellation of prior scheduled meetings with the Clerk "appear questionable as to the reasoning," and that the Clerk told him she would provide access, but preferred to know days in advance what information he was requesting.

As a result of the Vice-Mayor's assertion of contradictory advice, the Village Attorney wrote an e-mail on July 29 to Vice-Mayor Cooper explaining that he had "an absolute right to public records" and did not have to put a request in writing (noting that such a request would make it easier to obtain those records). However, he advised the Vice-Mayor that he did not have a right to require the Finance Clerk to work after hours as that disrupts the running of Village business.

This resulted in an e-mail response from the Vice-Mayor dated July 30 addressed to Robert Meyers of the Miami-Dade Ethics Commission and the Village Attorney, with copies to the Clerk and Manager, demanding to know if the Finance Clerk is an exempt or non-exempt position, requesting confirmation that there was no job description (despite the Clerk's prior verbal advice and prior e-mail confirming), asking if the Finance staff had worked late in the past and requesting further legal advice regarding his access to public records Mr. Meyer wrote an e-mail in response advising that his office lacks legal authority to give opinions on the Florida Public Records Act, but that he concurred with the Village attorney's interpretation of Florida law.

The Vice-Mayor's e-mails continued: to the Clerk he asked whether he needed Commission approval for access to government information; to Mr. Myers he asked: "who, that you know at State level, should I send my e-mails to regarding Sunshine law, since it is not you." E-mail by Vice-Mayor, Cooper, July 30, 2010. To the Clerk and Village Attorney he wrote asking as to the hours when a Commissioner can obtain Finance information and asking for a copy of the policy which "shows the Manager is not arbitrarily applying rules or restrictions of service to one Commissioner and different rules to another." And, in his next e-mail on July 30, the Vice-Mayor wrote to the Manager claiming that she was limiting his access to public records. In response, the Manager wrote back and noted in his initial request to the Clerk on June 18, 2010, the Vice-Mayor gave direct orders to the Clerk, in violation of the Charter, and did not copy the Manager. Also, she explained that public record requests are routinely handled by the Village with consistent practice. Finally, the Manager requested some "general description" of the information the Vice-Mayor was requesting, to determine if the Finance Director or the Finance Clerk was necessary to obtain the requested information.

Again, in response, Vice-Mayor Cooper wrote an e-mail to the Clerk and Robert Myers asking, "Mr. Meyers, do you review that status of Charter violation charges?" and then he asked for a "comment" on the Manager's earlier explanation that under the Charter his request should have been directed to her, and not to the Clerk, a Village employee.

A July 31 e-mail then followed from Vice-Mayor Cooper to the Village Attorney asking questions regarding public records and the Sunshine law, and stating, "I will hold off on...[moving] these and all other questions on to the State Attorney's Office until you answer me in the next few days (I HOPE)."

Subsequently, it was agreed the Vice-Mayor would schedule a meeting with Village Finance Director Arciola to obtain the additional information the Vice-Mayor would be requesting, including information from the HTE system. E-mail from Village Attorney to Vice-Mayor and Manager, August 4, 2010.

After a number of e-mails regarding scheduling, Vice-Mayor Cooper met at Village Hall on August 12, 2010 with Finance Director Arciola, Finance Clerk Karina Moreta and the Clerk. Vice-Mayor Cooper made requests for information and documents, which included several print-outs from the HTE system, as well as copies of the Time Sheets of the Manager since she began working for the Village. The Clerk's e-mail of August 13, 2010 detailed every request, and what was provided in response. The Vice-Mayor's specific concerns regarding the Manager's Time Sheets and alleged violations of Personnel Policy have been detailed above.

5. FINDINGS OF THE INVESTIGATION

The Village Charter sets out the Village Manager's duties and responsibilities, as well as the prohibition on Commissioners directing Village employees. These provisions are standard for a Manager led form of government in which the Commission sets policies, budgets, practice, etc. and relies on the Manager, as a professional administrator, to carry out the Commission's directions and to manage employees and oversee the Village's daily operations. Florida's Public Records Law mandates that public records be available to all, except for specified exemptions; Florida's Government in the Sunshine Law establishes a right to access to governmental proceedings, and, accordingly, requires deliberations of elected governmental officials to be in the "sunshine," and prohibits private meetings and communications over the public's business. No law or policy regulates civility, common courtesy or requires an elected or appointed official to be reasonable or work cooperatively with others.

Nonetheless, we all expect, and often the public demands, that their elected and appointed officials act appropriately, with recognition of others. Hopefully, all public officials, elected and appointed, will recognize they will best serve the public interest, and their own reputation, by acting reasonably and understanding that, as public officials, they represent and serve the public interest, not only their personal wants and goals.

A second prefatory explanation also is necessary. The scope of this investigation concerned the Manager's July 26, 2010 complaint. Although noting the underlying history of concerns regarding the Manager and her performance by Commissioner Vice-Mayor Cooper and Commissioner Bernard, whether the Manager has performed her job poorly (or well) is not directly relevant to the scope of this investigation, which is as follows: whether the Manager's allegations are true, and if so, are there any recommendations to assist elected and appointed Village officials and to benefit the public.

Because the investigation involved allegations that Vice-Mayor Cooper made certain statements to Lynn Fain, a Miami-Dade Transit employee, I had an initial concern regarding the investigation because Vice-Mayor Cooper had sent his August 2 e-mail denying the Manager's complaint directly to Ms. Fain. Vice-Mayor Cooper may have compromised the investigation by sending his e-mail to a witness which included the statement that "communications will indeed be forthcoming to the State Attorney's office." This concern was heightened by Ms. Fain's refusal to speak to me until after approval by the County Attorney's office, only speaking to me with her supervisor present, her statements regarding her past difficulties with Vice-Mayor Cooper and her general demeanor during our conversation. It appeared to me that Ms. Fain was not completely forthcoming. Of course, I have no authority to obtain statements under oath in this investigation. Accordingly, I find that the allegations that Lynn Fain told the

Manager and the Clerk that Vice-Mayor Cooper stated, "I am going after her" (referring to the Manager) to be unsubstantiated. Also, I find the allegation that Vice-Mayor Cooper said to Lynn Fain, regarding the former Manager, that he was "on mental leave" to be unsubstantiated.

As to the principle allegations, it is abundantly clear and confirmed – as established by numerous e-mails- that Vice-Mayor Cooper has been consistently accusatory and threatening in word and in tone to the Manager, as well as to the Clerk and the Village Attorney. The Vice- Mayor both hides and attacks behind e-mails, rather than trying to work with Village staff. He has routinely sent e-mails or copies of e-mails to the Miami Ethics commission, threatened to go to the State Attorney's Office, and implied actions contrary to his desires would be in violation of the law in communications with the Manager and the Clerk. For example, see Vice-Mayor Cooper's e-mail of December 17, 2009 (claiming ethical/charter violations ...tainting of governmental process), e-mails of July 28 and July 30 to the Clerk and R. Myers of Miami-Dade Ethics Commission (implying Clerk preventing him access to documents, asking who to contact at the State level re "Sunshine law, since it is not you..."); and e-mail of August 2, 2010 in response to the Manager's complaint ("Communications will indeed be forthcoming to the State Attorney's Office..."). Also, when the Clerk did not provide him with a red-lined version of the Code, -which she did not have-the Vice-Mayor's response was to threaten to go to the State Attorney's Office. There was no rational reason for such a threat.

Whenever the Vice-Mayor has not obtained the response he has wanted, he has attacked, challenged, and threatened. This includes not only the Manager, as evidenced by the Vice-Mayor's e-mails of December 17, 2009 and July 30, 2009, but also his attacks and threats to the Village Attorney when he was unhappy with information received. See Vice-Mayor Cooper's e-mails to the Village Attorney dated January 13, 2010 (claiming the Village Attorney gave contradictory advice, demanding to know if the Village was being charged for the advice and saying he may seek outside legal advice) and July 31, 2010 ("I will hold off on [moving] ...these and other questions on to the State Attorney's Office until you answer me in the next few days (I HOPE).").

Further, I find that Vice-Mayor Cooper's refusal not to identify the public records he wanted-as is his right- to be needlessly disruptive to the Village staff and counter-productive to his own goals. He had no facts to support his claim that he was fearful documents would be altered, destroyed or not provided to him if requested in writing, other than the anecdotal claims of other residents that they had not received requested documents. Ms. Manso told me that, other than a time sheet, she had no concerns about the maintenance of public records. Because the Vice-Mayor prefers to communicate only by e-mail, it was difficult and time consuming to coordinate a date and time for his review of documents. It would have been much easier, especially as the Vice-Mayor's purported fear of document loss or alteration was unsupported, to simply

provide a written request for documents. Also, it should be noted that any destruction or alteration of public documents is a serious violation of the law.

Also, I find that the Vice-Mayor's direct communication with the Clerk by his June 18, 2010 e-mail appears to violate the Charter's prohibition on Commissioner's directing Village staff, as the Vice-Mayor directed the Clerk and other staff to be present for the Vice-Mayor's document search, particularly as the Vice-Mayor did not copy the Village Manager. However, I find the Vice-Mayor's request for information about file location and file storage to be appropriate, as he was not directing staff; but only asking questions to the Clerk concerning her area of responsibility.

I find that Vice-Mayor Cooper's conduct has had a harmful effect on the Village operations as he has escalated all issues and disputes into heightened conflict, exacerbated by his threats of going to the State Attorney, or his innuendos of some ethical violation by sending e-mails (directly and by copy) to the Miami-Dade Ethics Commission. Such threats and implied threats have no proper use by an elected official. Instead of focusing on obtaining the information he desired (and has an absolute right to obtain public documents at any time), Vice-Mayor Cooper engaged in hostile e-mails with the Manager, the Clerk, the Village Attorney, and- when he did not get the response he desired-even with the representative of the Miami-Dade Ethics Commission. This hostility, direct threats and indirect personal attacks did impede the Manager, the Clerk and Village staff from performing their work, and unnecessarily created a negative atmosphere.

As to the Vice-Mayor's concerns regarding the Manager's performance, possible violation of Personnel Roles, abusive actions, etc., all of that is beyond the scope of this investigation. Moreover, such an investigation may be authorized by the Commission. And it must be noted, that the Commission has the express authority in the Village Charter, Section 3.01 (B), to "remove" the Manager at any time. See also Charter §3.03, "Removal Procedure." Finally, I understand that the Commission is soon to be performing an evaluation of the Manager, during which Vice-Mayor Cooper and any other Commissioner may identify any concerns and issues regarding the Manager and her job performance.

6. RECOMMENDATIONS AND CONCLUSION

Regardless of the significant conflict detailed above, it is clear that Vice-Mayor Cooper is passionate and dedicated in his support of the Village. The Village Manager and Clerk have expressed their desire for the Village's success and for a better relationship with the Vice-Mayor. Although there is a split on the Commission, that is not unusual and not necessarily harmful, as it forces both sides to explain and justify their positions and, therefore, hopefully arriving at the best decision for the citizens of the Village.

Because reducing the conflict between elected officials and Village staff will lead to an improved Village government, I recommend the Village engage a facilitator/trainer/coach who will provide training on clear communication, conflict resolution techniques and organizational growth and development. The facilitator should receive a copy of this memo and have an opportunity to speak with all Commissioners, the Manager, Clerk and Department Heads to enable him to prepare targeted and appropriate training.

The City Attorney has had to devote considerable time to respond to inquiries regarding access to public records. Based on my review, all of the Village Attorney's advice regarding public records has been accurate, as further confirmed by Robert Myers of the Miami-Dade Ethics Commission. Because this has taken up significant time of the Village Attorney, and because of the conflict over access to public records detailed in this memo, I recommend that the Village Attorney provide a training seminar of the Florida Public Records law and oversee development of a basic Village public records policy and flow chart so that Village staff, elected officials and the public understand what the law requires and to ensure clear, understood procedures needed to effectuate the law. Also, I recommend that there should be practical training so that Village officials understand how to confirm the accuracy and completeness of their responses to public records request.

Through the use of a facilitator to reduce interpersonal conflict and to improve clear communication, I am hopeful most of the underlying conflicts and difficulties which have given rise to the Manager's complaint, and the Vice-Mayor's concerns, can be resolved, and that elected officials, Village staff and Village citizens all will benefit from improved communication and service.

**MANAGER COMPLAINT,
VILLAGE ATTORNEY
DIRECTION AND
VICE-MAYOR RESPONSE**

-----Original Message-----

From: Ana M. Garcia <villagemanager@biscayneparkfl.gov>

To: 'John Hearn' <attyhearn@aol.com>

Cc: villageclerk@biscayneparkfl.gov; vobparchives@biscayneparkfl.gov

Sent: Mon, Jul 26, 2010 12:42 pm

Subject: meeting

Hi John, I hope you had a great weekend.

John, I need to meet with you and the clerk to get some direction in regards to Commissioner Cooper. It has come to the point where everything he communicates to us via email and now in person last Friday to our Clerk is of an accusatory nature, where he is either making threats and or continuing to be derogatory. Nothing that he is bringing to light is of substance on how we can better serve our residents and or deliver services to the Village of Biscayne Park, therefore Commissioner Cooper is taking us away from the work that we should be doing, at least attempting to do so, to the point that we don't understand and or cannot assist him to his satisfaction. His actions have become a mental torture, of innuendos and perceptions where there is nothing we can do to satisfy him for his issues are not anything that we can fix.

I have called him and emailed him on numerous occasions to meet with him and make every attempt to discuss anything with him that he wishes to communicate to me so that we can better serve the Village and our residents, it has gotten to the point that we have concluded that Mr. Cooper has a personal issue with me as was communicated to me in the presence of the Clerk by Lynn Fain of Miami Dade County, and I quote "I am going after her". It is apparent that his wrath goes beyond me, to other elected officials here in the Village of Biscayne Park, and now he continues to intimidate our Clerk, who is doing an outstanding job to serve our residents. So much of our time has been spent in dealing with trying to work with Mr. Cooper to no avail. Mr. Cooper has had an issue with my recommendation of the ARRA Grant he went after M. Fain and threaten her job, when he was a resident he went to the County and when asked why then Village Manager Spence was not present in the meeting, Mr. Cooper told Lynn Fain that Mr. Spence was on Mental Leave. This individual easily fabricates things about others without any thought to consequences, and his behavior has become detrimental to our Village and our day to day operations.

I know that this is a difficult situation for you as well, but we can no longer hope that it will go away, for it is getting worse. There is something in this individual's perception that causes him to behave in such a way that neither I nor my Clerk can make it anything better for him, if we continue to attempt to satisfy him it will basically prevent us from running the daily operations of our Village.

I ask for some direction from you, and I would like to meet with you and the Clerk to try and find some resolution, thanks John.

Ana M. Garcia, CPRP
Village Manager
640 NE 114th Street
Biscayne Park, FL 33161
Ph. 305.899.8000 ext. 229
Fax. 305.891.7241
agarcia@biscayneparkfl.gov

From: Ana M. Garcia [mailto: villagemanager@biscayneparkfl.gov]
Sent: Wednesday, July 28, 2010 2:50 PM
To: 'attyhearn@aol.com'
Subject: RE: meeting

John, after thinking things over, I would like to take the opportunity to meet with Vice Mayor Cooper, and discuss this with him first, as if the shoe were on the other foot, I would appreciate that same consideration and opportunity granted to me. Giving the opportunity of the doubt to my employer and or boss would be the first course of action I would take. Thank you for your direction, thanks.

From: attyhearn@aol.com [mailto: attyhearn@aol.com]
Sent: Wednesday, July 28, 2010 1:52 PM
To: villagemanager@biscayneparkfl.gov
Subject: Re: meeting

Ana, Upon review of your below e-mail I arranged to meet with you last night to discuss the content. As I informed you, my role in this matter is necessarily limited as I have no authority under the Charter to investigate the alleged actions of a Commissioner. Based on the content below, I advised that it would be appropriate for you to inform the entire Commission of your concerns. The Commission as a body can decide the appropriate course of action to take. To protect all involved I would recommend engaging an independent attorney/HR professional to investigate this matter. That decision will ultimately be up to the Commission. However, as we discussed, the below e-mail you sent to my attention is a public record and due process must be afforded to all parties. You confirmed last night that you would inform the entire Commission of your concerns today. Otherwise, I will ask the Commission for direction on how to proceed. Thanks.

-----Original Message-----

From: Ana M. Garcia < villagemanager@biscayneparkfl.gov >
To: attyhearn@aol.com
Cc: villageclerk@biscayneparkfl.gov; vobparchives@biscayneparkfl.gov
Sent: Mon, Jul 26, 2010 4:16 pm
Subject: RE: meeting
Thanks so much!

From: attyhearn@aol.com [mailto: attyhearn@aol.com]
Sent: Monday, July 26, 2010 5:02 PM
To: villagemanager@biscayneparkfl.gov
Cc: villageclerk@biscayneparkfl.gov; vobparchives@biscayneparkfl.gov
Subject: Re: meeting

Lets meet before the meeting tomorrow.

From: Ana M. Garcia <villagemanager@biscayneparkfl.gov>
To: rox@roxross.com; bcooper@biscayneparkfl.gov; Steve Bernard
<steve@stevebernardarchitect.com>; Commissioner Bob Anderson <banderson@biscayneparkfl.gov>; Al
Childress <albertchildress@yahoo.com>
Cc: attyhearn@aol.com; villageclerk@biscayneparkfl.gov
Sent: Mon, August 2, 2010 10:32:50 AM
Subject: FW: meeting

Good Morning All,

Per the direction of John Hearn , I am forwarding this to you. If you scroll all the way down you will see the original email that I sent to John regarding my concerns. I was hoping to find resolution but my numerous requests to meet and or speak to Vice Mayor Cooper have been ignored. This was a very difficult decision for me but the decision became the right thing to do when I saw the negative toll it was taking on our Clerk. Just this past Friday the 23rd when the Vice Mayor was expressing to Maria his dissatisfaction with the Code Review he stated to Maria that he would be contacting the State Attorney's office. If it is not a threat of the State Attorney is a threat to the Ethics Committee or constant emails of dissatisfaction and accusing us of what we won't do before we even address the email. We are watching our spending and our Attorney has been very conservative in his billing, but the situation with Vice Mayor Cooper is really getting out of hand and could be very costly to us and our Village in many ways. There is nothing we can do to satisfy Mr. Cooper, and we can live with that, knowing how much we have tried to work with him.

Please know that as your Manager every thing I and my staff have ever done and ever will do will be with great integrity and the outmost of service and respect to the residents of the Village of Biscayne Park.

Respectfully,
Ana M. Garcia

-----Original Message-----

From: Bryan Cooper <bryancooper7@yahoo.com>

To: villagemanager@biscayneparkfl.gov; rox@roxross.com; bcooper@biscayneparkfl.gov; Steve Bernard <steve@stevebernardarchitect.com>; Commissioner Bob Anderson <banderson@biscayneparkfl.gov>; Al Childress <albertchildress@yahoo.com>; Rmeyers@miamidade.gov; Lynne S. (MDT)" <lsf@miamidade.gov>

Cc: attyhearn@aol.com; villageclerk@biscayneparkfl.gov

Sent: Mon, Aug 2, 2010 6:21 pm

Subject: Re: meeting

Commissioners should not respond to this in order to uphold the laws of the State of Florida:

Ms. Garcia:

Your fabrication of the below statements is wondrous. I truly look forward to the legal deposition by Ms. Fain to substantiate your claims, which are so outrageous to be laughable, if they were not so serious. Communications will indeed be forthcoming to the State Attorney's Office...but I hope that you begin to adhere to full access to public records for those who are concerned with dully investigating allegations against your office, as I believe you are required to do under the laws of the State of Florida.

Then we will be prepared to meet with the independent attorney and/or consultant that Mr. Hearn recommends, and/or we can bring information to the State Attorney.

Your choice at this point Ms. Garcia.

Also, all Commissioners I'm sure by now have interviewed the former staff member as to her allegations concerning you Ms. Garcia....at least I hope so. And I am cc'ing Ms. Fain so she can be aware of your email below and your stating that, for example, she is witness to my saying what you accuse me of saying, which I never did and would have no reason to have done. Also, I'm cc'ing Robert Meyers of the Miami-Dade ethics board, so he stays in the loop.

Bryan Cooper

MARILU MANSO

E-MAIL

APRIL 8, 2010

--- On Thu, 5/27/10, bryan cooper <bcooper839@yahoo.com> wrote:

From: bryan cooper <bcooper839@yahoo.com>
Subject: ...from Biscayne Park
To: "Marilu Manso" <mansom1969@yahoo.com>
Date: Thursday, May 27, 2010, 6:37 AM

Hi Marilu:

Bryan Cooper from Biscayne Park here.... Can I call you again to chat about a few things? If so, let me know a good day/time and the best number to use.

I hope this note finds you well.

Sincerely,

Bryan

From: Marilu Manso <mansom1969@yahoo.com>
To: Steve@SteveBernardArchitect.com; albertchildress@yahoo.com; banderson@biscayneparkfl.gov; bcooper839@yahoo.com
Sent: Thu, April 8, 2010 8:36:14 PM
Subject: FW: Copy of email sent to the manager at 1:24pm

FYI

--- On Thu, 4/8/10, Marilu Manso <mansom1969@yahoo.com> wrote:

From: Marilu Manso <mansom1969@yahoo.com>
Subject: Copy of email sent to the manager at 1:24pm
To: "Holly" <kismetpup@aol.com>
Cc: mansom1969@yahoo.com, policechief@biscayneparkfl.gov
Date: Thursday, April 8, 2010, 1:24 PM

Manager Garcia,

With this email please be advised that effective immediately I am terminating my contractual services as Finance Clerk with the Village of Biscayne Park.

I am an independent contractor, a vendor who at free will has served the Village in the Finance Department accommodating to changes and management needs. I have made every effort to carry my duties in a professional and integral manner as long as possible. I have been more than accommodating by advising you as of December 2009 that I will not be staying with the Village and a replacement has not been in place as of today.

I have irreconcilable differences with your Management style and feel that your decisions and actions will ultimately jeopardize the ethics and integrity of the Finance Department. Thank you

for respecting my decision.

Thank you.

Marilyn Manso

PS/ Attached please find my schedule of hours worked this week. While I do not anticipate that you will compensate me for these hours please retain for your records, as every line item of my invoices describes the work performed. This may be of guidance for the replacement person you will find for Finance.

**MANAGER
TIME SHEETS
(3)
FROM VICE MAYOR**

Time Sheets
From - 5/27/10 To - 6/10/10

of
of

Employee: GARCIA, ANA M - VILLAGE PARADISE		Dpt./Div./Act: 1200512 ADMIN/VILLAGE CENS		16.000 SICK TIME		26.000	
BIRTHDAY		8.000 COMP. TIME BANK		1.000 FLOTTING HOLIDAY			
VACATION		54.000					
Day	Date	Type	Hours	Proj	Rate / \$	Hours	Total
Sat	5/29/10						
Sun	5/30/10						
Mon	5/31/10						
Tue	6/01/10						
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Sun	6/06/10						
Mon	6/07/10						
Tue	6/08/10						
Wed	6/09/10						
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Sat	6/12/10						
Totals by type:							

Employee's signature: _____ Date: _____ Approved by: _____ Date: _____

AN VACATION ADVANCE 80 RETROACTIVE OVERTIME 80 RETROACTIVE REGULAR 80 SALARY 12 REGULAR 13 PART TIME REGULAR
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3-29 8:30 - 6:45 4-2 4-7 8:30 AM - 4:30 PM
3-30 9:00 - 7:30 4-3 9:30 - 12:45 4-8 9:45 - 7:00 PM
3-31 9:30 - 7:45 4-5 9:45 - 7:30 4-9 8:45 - 4:45 PM
4-1 8:45 - 7:30 4-6 8:45 - 7:30 4-10 8:45 - 7:30

BISCAYNE PARK

COMP.	TIME	HOURS
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144.000		

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10	22	3.00	
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1. The first part of the document is a title page. It contains the title "THE HISTORY OF THE UNITED STATES OF AMERICA" and the author "BY JAMES M. SMITH".

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Time Sheets
From - 12/20/99 To - 1/02/00

12/09, 9:04:13

of Disciplinary Park

Employee: GARCIA, ADA M - VILLAGE MANAGER [REDACTED] EMP/EMP/AGT: 1200513 RESIN/VILLAGE CLERK

BIRTHDAY 8.500 COMP. TIME BANK 146.500 1200 FLOODING HOLIDAY 16.000 SICK TIME 96.000

Day	Date	Type	Hours	Rate / \$	Fund	Sp/Sp/Sp	Al/Al/Al	Type	Bonus	Prod	Rate / \$	Fund	Sp/Sp/Sp	Al/Al/Al	Total
Sun	12/26/99														
Mon	12/27/99		8.00												
Tue	12/28/99		8.00												
Wed	12/29/99		8.00												
Thu	12/30/99		5.00												
Fri	12/31/99		8.00												
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Sun	12/27/99														
Mon	12/28/99		8.00												
Tue	12/29/99		8.00												
Wed	12/30/99		8.00												
Thu	12/31/99		8.00												
Fri	1/01/00		8.50												
Sat	1/02/00														
Totals by type:															80.00

Employee's signature: _____ Date: _____ Approved by: _____ Date: _____

AV VACATION ADVANCE 80 SICK TIME REGULAR 13 REGULAR 13
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Sub 12-19 - 12-30-99
 Mon - 8:45 - 7
 Tues 8:00 - 7:45
 Wed 8:00 - 5:00
 Thurs 8:15 - 6:15
 Fri - 8:30 - 9:30
 Sat - 8:00 - 2:00 p.m.
 Sun - 3:00 - 5:00 p.m.

ARRA GRANT PACKET (FROM CLERK)

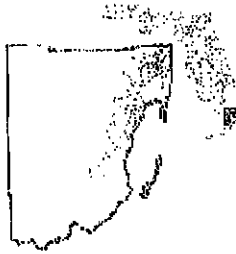
September 1, 2010

FILE: ARRA Grant

Page(s)	Description
1-4	ARRA grant application created by Bryan Cooper (Date=?)
5-11	Answers to questions from FTA/Atlanta submitted by Bryan Cooper on 7/20/10.
12-13	Minutes from October 8, 2009 regular commission meeting
14-34	Minutes from October 28, 2009 special commission meeting and joint meeting with the Pathways Ad Hoc Committee where the decision was made to cancel the project.
35	Minutes from December 8, 2009 regular commission meeting
36-38	E-mail from Bryan Cooper dated December 17, 2009 and related e-mail string
39	E-mail from Bryan Cooper dated December 17, 2009.
40-41	Minutes from January 12, 2010 regular commission meeting
42-43	Minutes from May 4, 2010 regular commission meeting
44	E-mail from Bryan Cooper dated May 3, 2010
45-46	E-mail from Bryan Cooper dated May 7, 2010 and related e-mail string
47	Detailed conversation from the May 4, 2010 regular commission meeting (refer to pages 42-43).
48-50	E-mails from Village Clerk and Village Manager dated May 20, 2010 and May 27, 2010, regarding meetings with MDT.
51	E-mail from Bryan Cooper dated May 27, 2010
52	Minutes from June 8, 2010 regular commission meeting where project was canceled.
53	Mayor's letter to MDT dated June 11, 2010.

ARRA -

**Village of Biscayne Park Transit Improvements
Pedestrian Walk/Greenway Linking Village Center with
Metro-Dade Bus Routes**



Fast Facts
Cost: \$32,896

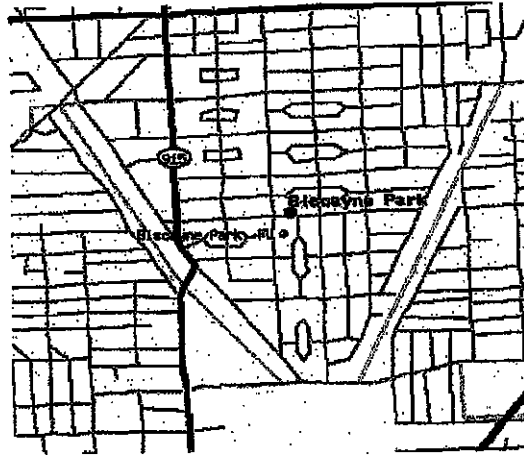
Schedule:

Contract Advertisements
July 2009

Contract Awards
September 2009

Beginning of Construction
November 2009

Anticipated Ribbon-Cutting
January 2010



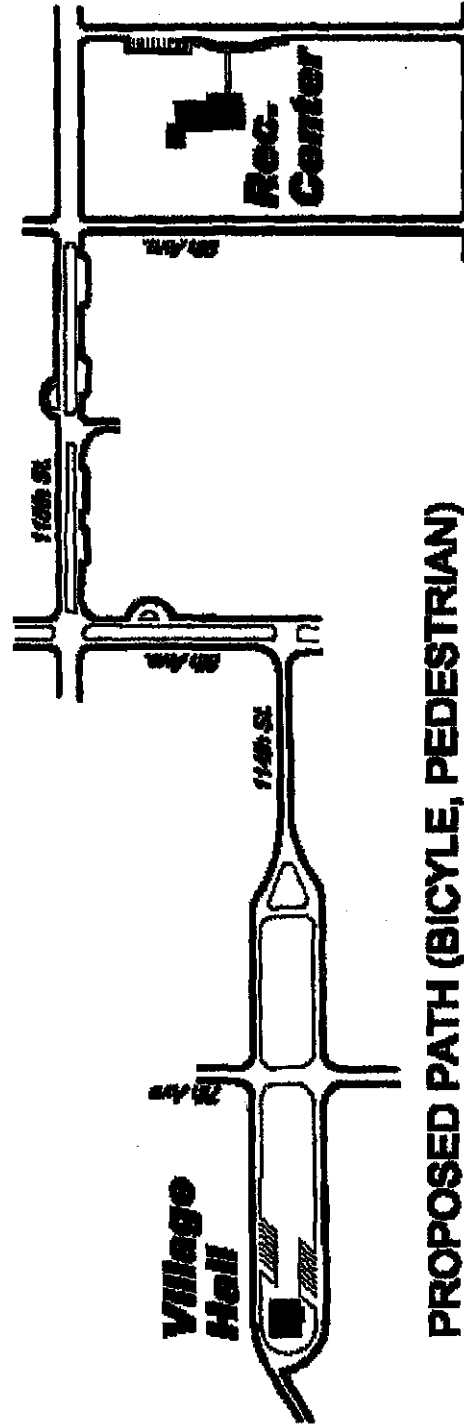
Project Summary & Need

The Village of Biscayne Park (BP) has no sidewalks except a recently built perimeter around its central park ("Ed Burke Park" [EBP]). The Village Comprehensive Plan recognizes additional multi-modal transit needs for East-West sidewalks and greenways linking EBP with the Village government building (.3 miles west) and adjacent SR 915 / NE 6th Avenue and Miami-Dade bus stops (approximately 300 feet further west).

BP proposes to use ARRA funds to create approximately 1,200 feet of E-W walk and bikeway for immediate use, and supporting future integration with planned portions of dedicated roadway for pedestrians and bicyclists (approximately 1900 feet of local road). The complete project will assure safety, while equally facilitating access between Miami-Dade transit and the Village park (supporting goals of MDT planning). The design is being developed by BP (see p.2 & 3), and will include terminally located bike racks and/or cages and bench seating to support intermodal users.

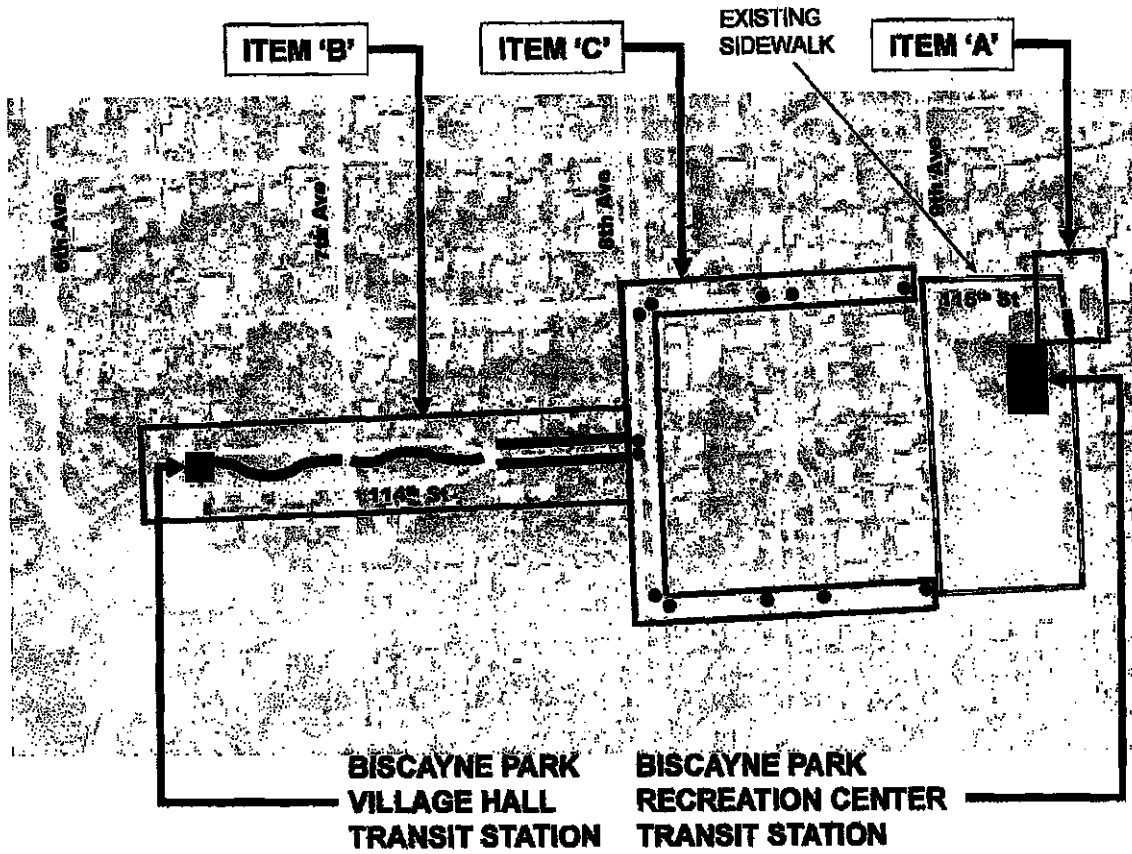
Existing and Future Project Support

Item A: The EBP perimeter sidewalk section was started in 2008 (see p.3, outlined aerial rectangle to east). Only ninety square feet of sidewalk is needed to complete the loop. When connected to the ARRA funded eastern East-West section (Items B,C), BP pedestrian/bike transit from EBP will be poised to safely and efficiently connect to future FDOT sidewalks along SR 915/NE 6th avenue (3 to 5 years per FDOT). The larger project, in turn, will link the BP multi-modal system with existing sidewalks to the north (City of North Miami) and to the south (in Miami-Dade County and Miami-Shores Village). Also, an existing North Miami Shuttle – free for residents accessing nearby grocery stores and other points north and east – serves each terminus.



PROPOSED PATH (BICYCLE, PEDESTRIAN)
BISCAYNE PARK, FL





Village of Biscayne Park Walkway / Greenway Connecting to Miami-Dade Transit

Scope of Work	Qty	Unit	Cost	Subtotal Cost	Remarks
ITEM 'A' (Rec Center)					
Plans & Specs	1	each	\$ 500	\$ 500	BP permit fees waived, inspection fees only Small scope, short concrete pour = more cost/sf
Permitting/Administration	1	each	\$ 250	\$ 250	
3' wide sidewalk (to connect and complete full link - +/-30 lf)	90	SF	\$ 10	\$ 900	
Patch asphalt parking	1	each	\$ 250	\$ 250	
Bike Cage	1	each	\$ 1,000	\$ 1,000	
				<u>\$ 2,900</u>	
ITEM 'B' (Village Hall to 8th Avenue)					
Plans & Specs	1	each	\$ 1,000	\$ 1,000	BP permit fees waived, inspection fees only
Permitting/Administration	1	each	\$ 250	\$ 250	
5' wide Asphalt Path (820 lf)	413	SY	\$ 12	\$ 4,956	
3' wide Asphalt Path (north of 114th St - 290 lf)	97	SY	\$ 12	\$ 1,164	
Resin composite sealing/benches, incl. freight	4	each	\$ 450	\$ 1,800	
3' wide Asphalt Path (south of 114th St - 290 lf)	97	SY	\$ 12	\$ 1,164	
Bike Racks	2	each	\$ 600	\$ 1,200	
Bike Cage	1	each	\$ 1,000	\$ 1,000	
Printing, Graphics, Communications	1		\$ 286	\$ 286	
Xeriscaping/mulch along paths	1	each	\$ 2,000	\$ 2,000	
				<u>\$ 13,616</u>	
ITEM 'C' (Toad/Future Street Closure)					
Plans & Specs	1	each	\$ 1,500	\$ 1,500	BP permit fees waived, street closure county review fees only Maybe go to asphalt, but not a great look, poor drainage
Permitting/Administrative Costs	1	each	\$ 2,500	\$ 2,500	
Baricades	12	each	\$ 280	\$ 3,360	
Brick Pavers across medians (14 homes)	1,120	sf	\$ 5	\$ 5,600	
Paint Striping	1	each	\$ 1,500	\$ 1,500	
Signage	12	each	\$ 150	\$ 1,800	
				<u>\$ 16,360</u>	
				<u>SUBTOTAL</u>	
				\$32,866	

Submitted: July 20, 2009

Answers submitted per request of FTA Atlanta, GA, and by email from Lynne Fain, July 16; as addition to ARRA Transit Grant approved by Miami-Dade Transit; US Department of Labor.

Village of Biscayne Park Project Cost: \$32,896. Estimated direct economic support for more than 10 US companies and personnel.

April 2009 to present: Total Village Resident & Staff Hours contributed to project: 213.

Question 1: Quantify and name Miami-Dade Transit (MDT) bus routes linking to the proposed sidewalks/walkways/bike ways.

- **Answer 1:** Miami-Dade bus stop for route # 16 on NE 6th Avenue within Biscayne Park (BP); NoMi free shuttle in BP (2 stops; Village Log Cabin & Ed Burke Park) connecting directly to an additional 21 Miami-Dade stops linking to 12 additional routes within the adjacent City of North Miami (MDT buses 2, 3, 9, 10, 16, 28, 75, 83, 93, G, E, and NW 7th Ave Max).

Approximately 5% of revenue miles of Route 16 are within Village boundaries; project will support revenue miles of other MDT routes since residents often opt for free movement using convenient NoMi shuttle to other MDT bus stops in North Miami.

Question 2: Indicate the total number of bus stops involved in your project.

- **Answer 2:** Currently 4 adjacent and nearby stops: 1) MDT 6th avenue at 115th Street; and MDT 6th avenue at 113th street; however, when DOT places currently planned sidewalks along NE 6th avenue (projected 2012-13), an additional stop on 6th avenue at 119th street will bring a total of 5 stops -- MDT & NoMi -- in BP. Additionally, once sidewalks are complete, there will be pedestrian connection to bus stops in North Miami and Miami Shores.

Question 3: Estimate the number of transit riders utilizing these improvements.

- **Answer 3:** The universe of *current regular transit riders* expected to benefit from these improvements is approximately 400 based on 2000 Census data. There is however a larger potential universe of irregular use in approximately 5,000 people in zip code area 33161; and 3,269 residents within the Village.
- Combined boardings/alightings for two MDT stops (113th and 115th street) average 199 per day. (Additional 150 riders per day at 6th avenue and 119th street in BP)
- Estimates based on census data from the following:
 - **Census Tract 12.02 (Including western Half of BP) & Census Tract 12.03 (including eastern Half of BP):**
 - 9.3% use public transportation for work; or 273 people in Tract 12.03 to east of Ed Burke Park (less affluent area; area with more poverty.)

- **3.2% use public transportation for work; 128 people in Tract 12.02 to west of Ed Burke Park (area with less poverty).**
- **Also, 277 people recorded as gainfully employed in BP did not record means of getting to work, according to Census 2000 data (8.5% of BP residents transit needs were not linked statistically in any way with personal car use.)**
- **With poverty rate for families in BP at 9.5% (89 families); or 398 individuals / 12% of total village population – those who might need to rely more heavily on public transportation are roughly equal to census transit use data parsed to 33161 zip code -- Biscayne Park, North Miami; and immediately adjacent unincorporated adjacent areas – where approximately 10% of the population uses public transit.**
- **Additional relevant data: Average NoMi Bus Boardings per stop across system: 10 per day per stop; estimated **20 per day in BP** (using North Miami system-wide averages across 40 stops per most recent data available: 2006-2007 NM data provided by Miami-Dade Transit). Per John O'Brien, North Miami, ridership in BP is still constant at around 20 per day in 2009.**
- **Miami-Dade # 16 Bus Boardings at 115th Street and NE 6th : Average 100 boardings/alightings per day (source, Miami-Dade Transit).**
- **Miami-Dade # 16 Bus Boardings at 113th Street and NE 6th : Average 99 boardings/alightings per day (source, Miami-Dade Transit).**

Question 4: Justify the sidewalk/walkway/bikeway connectivity to the MDT bus stops.

Answer 4: In March, 2009, the Secretary of Transportation Ray LaHood addressed livable communities in his blog (<http://fastlane.dot.gov/2009/03/livable-communities-the-hometowns-americans-deserve.html>) by saying, "One of my highest priorities is ... to help promote more livable communities through sustainable surface transportation programs." We agree, as LaHood said, that: "Creating livable communities will result in improved quality of life...and create a more efficient and more accessible transportation network that services the needs of individual communities"; and fostering the concept of livability in transportation projects and programs will help America's neighborhoods...." In June, 2009, LaHood furthermore embarked on a collaborative effort with other federal agencies and expressed further the clear need to "value communities and neighborhoods" by "...investing in healthy, safe and walkable neighborhoods...."

The BP safe pathway also is in keeping with the upcoming implementation of stimulus funds as prescribed by Congress for discretionary multimodal programs (Source FTA Presentation on ARRA Funding, dated February 17, 2009); and Federal Register announcements that the government expected project outcomes to include "...Livability, Sustainability, and Safety", while adjusting past rules to include as discretionary much smaller projects than the FTA past standard of \$20,000,000 minimum.

Furthermore, of Biscayne Park Residents who were polled in May, 2009, on whether they supported the Greenway concept using approved transit funds, more than 90% of approximately 100 people interviewed subsequent to our approval by MDT stated they supported implementing the linear pathway. Some residents on the route said they or their children already use the free

NoMi Shuttle to connect to Miami-Dade transit points in North Miami, and they saw the added benefit of having a safe place to exercise and promote quality of life in close proximity to transit.

Extrapolating using above public approval and Census 2000 population, approximately 3,000 people in BP would become favorably aware of this as our first stage effort in building a larger safe pathway connectivity and traffic calming supporting multimodal connectivity to transit points. Hence, the potential for boosting ridership and transit awareness is considerable within Biscayne Park alone. In addition, Ed Burke Park is a place frequented by not only BP residents, but by many residents who walk from North Miami and unincorporated Miami-Dade in areas to the south and west of BP.

Village safe pathway effort clearly aligns with other projects within the **TIP** and **STIP** where linear connectivity is supported by ARRA. Biscayne Park also is aligning itself with the larger goals of Miami-Dade County for livability by establishing a clear linkage between its park facility and transit.

Miami-Dade Parks and Open Space Master Plan "...calls for a system of parks and open spaces through a series of interconnected trails that include greenways, waterways, cultural areas, and natural spaces. One of the guiding principles of this plan is to improve access so that every resident can utilize the network to walk, bike, or ride transit to their destinations."

In addition urban planners in South Florida recognize a "...lack of pedestrian facilities fosters reliance on the automobile even for short trips within walkable distances." (Kimley-Horn; with the MPO during South Miami Traffic Study). In other words, MDT should benefit with increased ridership because of a safe linear walkway encouraging people to leave their cars behind while using parkland and historic areas for recreation. This goal aligns with a study conducted in the Twin Cities of Minneapolis-St. Paul revealing a positive relationship between pedestrian paths and getting people to use public transit.

Last, but far from least, children, seniors and adults currently lack any safe linear pathway to the only two municipal points of Village service. In 2007 two Biscayne Park children were seriously injured by a hit-and-run driver because of lack of safe pathways for multimodal use. (See <http://www1.wsvn.com/news/articles/local/MI36414/>)

This tragic accident resulted in the Village Commission authorizing the creation of a CPTED (Crime Prevention by Community Design) citizen's task-force. The report back to the Commission detailed, and the commission approved, a need to move forward with addressing the related safety concerns through pathway and safe-roadway development. In addition, our prior Village Visioning Document and Charrettes resulted in our State approved Comprehensive Plan recognizing the need to link these two points within the village with safe walkways.

In summary, this grant is a culmination of years of public input; past and present, including two recent (May 2009 to present) successful commission votes of support (one regular; one special commission meeting) one Saturday commission sponsored presentation for residents; an

informal resident group evening workshop; and presentation to the Parks & Parkways Advisory Board.

Justification Summary:

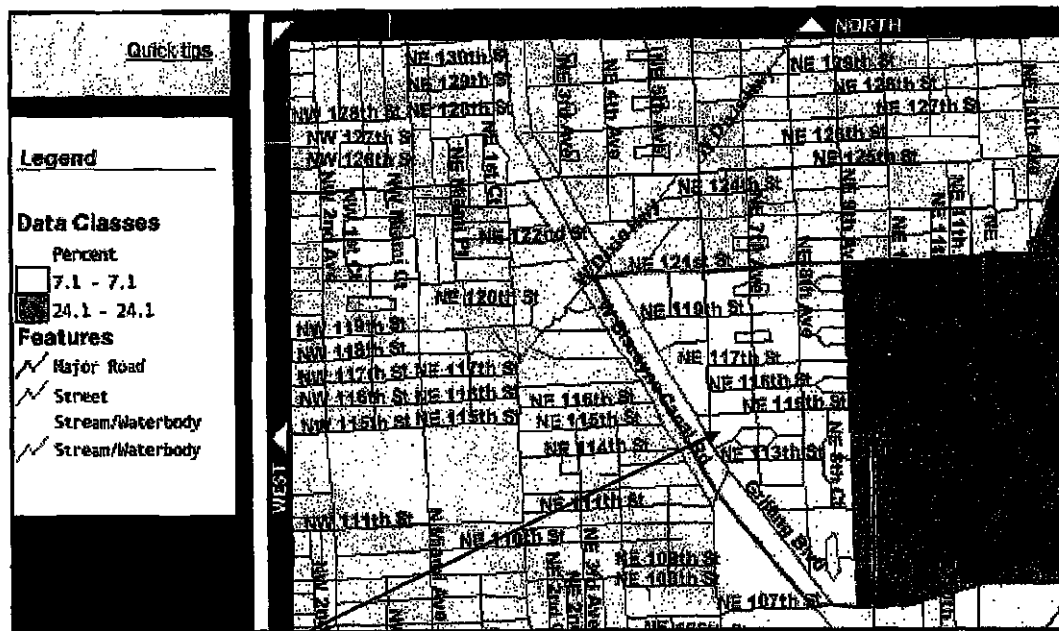
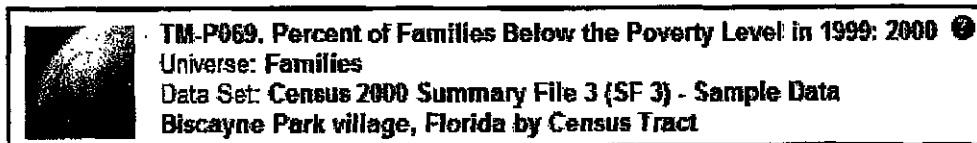
- The Department of Transportation published Federal Register notice on May 18, 2009 [HTML], inviting applications for multi-modal ARRA discretionary program for capital transportation infrastructure investments
- See http://www.fta.dot.gov/index_9440_9924.html
- Transit projects listed as eligible.
- BP has no safe linear walkways through the village to its transit points
- Obvious negative impact on ridership as a result
- Community suffered a tragic hit-and-run accident in 2007, pointing to safe pathway need.
- No bike cages or suitable bike racks to promote multimodal use of transit exist in BP.
- No signs posted detailing routes / bus connections at its internal nodes for people to understand transit options
- Vast majority of residents in the Village support the project.
- The cost/benefit is superior to the previous plan (bus shelters on 6th avenue, which would have been torn out in a few years per FDOT ADA sidewalk and curbing plans. (**This project immediately saved federal dollars from wasteful spending*).
- Project clearly supports the goals of the new administration in Washington, DC and the Secretary of Transportation.
- Recreational multimodal component will support economic production for years to come; not just during installation
- The safety and health of our children, seniors and all citizens is supported while promoting the use of alternative forms of transit.
- The community and village government has committed days and time in support of the project since approval by Miami-Dade and the Department of Labor; culmination of years of planning approved by the Commission and/or State of Florida.
- Immediately after construction, residents living east, west, north and south of the route will be able to move perpendicularly from safer and quieter streets onto the E-W safe route from their homes.
- Capital project will support acquiring future grants for additional funding connectivity and safe access in support of transit.

Question 5: The Village of Biscayne Park's Greenway project needs justification of the number of transit riders coming directly from the Greenway to the MDT bus stops.

Answer 5: This project supports users coming and going from MDT stops. Source US Census; MDT – Total estimated: 401 riders.

- **A. Users arriving from the west of the village log cabin (including from MDT #16 stops) will have a safe connectivity to:**
 - The central recreational park

- Adjacent eastern NoMi stop which connects them to either their stored bicycle or, without cost, to MDT routes 2, 3, 9, 10, 16, 28, 75, 83, 93, G. E. and NW 7th Ave Max in N.Miami.
 - This user group of established transit riders is estimated by Census 2000 data as 128 people.
- **B. Users arriving from the east to EBP and moving on foot or bike west to the government building will have a safe connectivity to:**
- Log cabin site with tables and benches.
 - Adjacent eastern NoMi stop with bike racks/cages; and with connection without cost to MDT routes 2, 3, 9, 10, 16, 28, 75, 83, 93, G. E. and NW 7th Ave Max.
 - #16 MDT Stop
 - This user group of established transit riders is estimated by Census 2000 data as 273 people.



1933 WPA Log Cabin; Adjacent Miami-Dade #16 Bus Stop; NoMi Shuttle Stop

Past Committed Person Hours and Public Involvement – Village of Biscayne Park

I. Park & Parkways Board Meeting (4-2009)

Discussion of available funds, possible uses and projects; participants included Village Manager, 5 P&P Members, resident audience.

Subtotal approximate person hours: 7

II. Investigation into allowable projects, rough cost estimates, possible routes to Transit Stations, possible amenities at Transit Stations.

- a. Discussions with urban designers as to feasibility of project.
- b. Creation of proposal, including graphics, cost estimate, narrative.
- c. Participants included Proposal Writer, local designers, Village Planners, Stimulus Administrators.

Subtotal approximate person hours: 20

III. Discussion of proposal to be submitted. Participants included Village Manager, 5 P&P Members.

Subtotal approximate person hours: 3

IV. Resident Awareness / Door to door discussion of concept of creating safe pathways to existing Transit Stations.

Subtotal approximate person hours: 10

V. Village Commission Meeting (6/4/09)

Discussion of proceeding with proposal and Interlocal Agreement. Participants included Village Commission; Village Manager and Attorney and Clerk; P&P Board Members, resident audience participation.

Subtotal approximate person hours: 5

VI. Village Attorney / Interlocal Agreement

Drafting of agreement.

Subtotal approximate person hours: 2

VII. Three hour Village Workshop (7/11/09)

Discussion of project. Participants included approximately 40 residents, Village Commission, Village Police Chief.

Subtotal approximate person hours: 120

VIII. Special evening meeting/workshop of citizens per directive of Mayor at Workshop (7/14/09)

Twelve residents met for 2 hours to discuss project; left with consensus to move forward and make recommendation to do so at next Special Commission Meeting.

Subtotal approximate person hours: 24

IX. Special Commission Meeting (7/16/09)

Discussion of proceeding with proposal due to additional requirements. Participants included Village Commission; Village Manager and Clerk; P&P Board Members, resident audience.

Subtotal approximate person hours: 2

X. Additional research, documentation and narrative requested by FTA / MDT

Subtotal approximate person hours: 20 hours

Total approximate person hours: 213

Flea market Update – \$647 from donations and concession vendors who have paid for a spot has been received. Three volunteer high school students were on hand to help with this event.

Coordination of meetings in this location – suggested in addition to further coordinate with the numerous events scheduled at the rec center have all events posted on a master calendar for reference.

The Recreation Advisory Board received an invitation from Miami Dade County offering to put on ethic seminars. Board consensus was to request this seminar for all commissioners and community members to review sunshine laws and other ethics.

Motion was made by Vice-Mayor Anderson to proceed with suggestions 1 through 3 to have the Manager pursue those actions.

Mayor Hornbuckle noted we should ask the Manager or the Attorney, especially about item 3.

Attorney Hearn recommends a one year term regarding the contract in item 3 and to post links on website. He would like to have some language that represents the Village is not endorsing those vendors.

The prior motion was seconded by Commissioner Mallette. The motion carried by voice vote, 5/0.

Ms. Ross noted it was brought to our attention that in the pavilion that goes with the 800 Park Lane an allocation for art in public places needs to be made. The Board will work with the Manager on a solution

It was noted there are many artists in the community and either an RFP or a request in the newsletter be made. A discussion on funding ensued.

3. Pathways Ad Hoc Committee – Gary Kuhl, Chairman

Mr. Kuhl noted there is general consent approaching the pathways as proposed in the grant application. The idea was to widen the road to provide a shoulder. The vote was not in favor of widening the road. Until further information is received regarding approval of the grant funds, this matter will be put on hold.

A discussion on the pathway and grant application ensued. Ms. Garcia will follow up on this item.

Gary Kuhl noted previously, in the public participation portion and in emails that the Pathways Ad Hoc Committee voted 6 to 4 against the proposal that was submitted to Miami Dade Transit with an amendment to request from them what changes can be made, but Chairman Kuhl stated "We haven't nixed anything".

Commissioner Bernard said he was at the meeting and that is not what he heard and until the minutes are posted he will give the benefit of the doubt. At this point he would like to

say the committee has been in effect for a couple of months and there are no minutes on the website and they have not been distributed to the commissioners. Minutes that have been approved need to be on the website and part of the public record.

A discussion ensued regarding Mr. Cooper representing the Village. It is the understanding that the official spokesperson for the Village is the Manager.

Commissioner Mallette suggested the Manager meet with the county to review what has been submitted, review the documents, have a clear understanding and then come back to the commission to advise on the parameters and what changes can be made.

Motion was made by Vice-Mayor Anderson to make the Manager spokesperson for this project dealing with the county, seconded by Commissioner Mallette with the stipulation that the project does not move forward until the Manager comes back with a report on exactly what is submitted and what the parameters are.

Vice-Mayor Anderson amended his motion to include the stipulation made by Commissioner Mallette.

Mayor Hornbuckle said a motion is not necessary. Direction is clear; we want a report from the Manager before we move forward.

Commissioner Bernard noted that if we are not going to meet until November than we are not going to make a decision in a timely manner and it may be too late to proceed with the project. Comprehensive traffic study update was received and a recommendation made. He noted the point of the Ad Hoc Committee was to get public input and Commissioner Mallette disagreed.

A discussion on the purpose of the Ad Hoc Committee ensued and concern was voiced on the issue of different information being received by commissioners.

There was general consensus that the project will be turned over to the Manager. If direction is needed by the commission prior to the scheduled November meeting a special meeting will be called.

B. Village Attorney Comments

Attorney Hearn updated the commission on the vehicle used to facilitate a robbery. With the help of the Police Department the jeep is in the Village's possession and the department is working with the State to get the title changed over to the Village.

This past month the command staff of the Police Department along with Attorney Hearn met with the PBA and explained that their participation is welcome but officers who are not doing their job will not be tolerated.

The Clerk and the Attorney will review and revise Village email policies. Some policies have been provided but not formalized or finalized and it is important to do that with email. He suggested the policies be formalized and then we bring in the Ethics Commission for a presentation. It would be appropriate to do this after the elections.



Village of Biscayne Park

MINUTES

SPECIAL COMMISSION MEETING AND JOINT MEETING WITH PATHWAYS AD HOC COMMITTEE

**Ed Burke Recreation Center – 11400 NE 9th Court
Wednesday, October 28, 2009, 7:00 pm**

1. CALL TO ORDER AND ROLL CALL

Mayor Hornbuckle called the meeting to order at 7:05 p.m. In addition to Mayor Hornbuckle, present were Commissioners Steve Bernard, Kelly Mallette, Chester "Doc" Morris and Vice-Mayor Bob Anderson. Present from Staff were Ana Garcia, Village Manager, John Hearn, Village Attorney and Kim Prenter, Acting Village Clerk. Also present was Stuart Robinson of Kimley Horn and numerous residents.

Mayor Hornbuckle said he would like to move the Order of Business - Additions, Deferrals or Deletions up to item 2A. Public Comments and the Good and Welfare we do not need two separate items so after the committee speaks and Kimley Horn and then the Commissioners have an opportunity to speak before we vote we will have the public speak.

2. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited followed by a moment of silence in memory of Commissioner Bernard's stepfather.

2A. ORDER OF BUSINESS –ADDITIONS, DEFERRALS, OR DELETIONS TO AGENDA

Mayor Hornbuckle said we will start out as we have it on the agenda with a report from the Pathways Committee by Chairman, Garrett Kuhl and then Mr. Stuart Robinson from Kimley Horn, our traffic consultants, will give us an update and then we will continue from there.

3. PRESENTATIONS

A. Report from Pathways Ad Hoc Committee – Garrett Kuhl

Gary Kuhl gave a brief overview of what has transpired to date. Earlier this year an application was made for federal stimulus transfer funds proposing connecting the rec center to the village hall via walk and bikeway and the term *greenway* was also used. The concept involved some segments of roadways to vehicular traffic providing medians to provide access to homes on the closed streets. The administrative agency, Miami Dade County Transit questioned the justification of sidewalk bike way connectivity to the Miami Dade Transportation bus stops and a reply was provided. The commission appointed an Ad Hoc Committee to explore alternatives. The committee held several meetings to discuss concepts and the concept which received the most support involved

lighting the roadway, an area out of the swale and pond pathways. A number of concerns were raised with that concept and the majority of the committee did not support the idea. An alternative was discussed concerning traffic augment in lieu of a pathway. We were subsequently informed that funds could only be used for pathways. At our last meeting two weeks ago Commissioner Bernard proposed a new concept.

The idea which is illustrated in the package distributed would be to keep the existing pavement as it is, reduce the drive lane by adding stripes leaving a non paved area by the side of the road which would be a walkway. On 114th Street there would be a slight widening required. The committee took no action on that proposal but did agree to notify the residents of the proposed pathway, so there is no vote of the committee. Mr. Romano the vice chair of the committee solicited some comments in his neighborhood.

Victor Romano said he surveyed his neighbors on 114th Street who would be most impacted by this project. He went around with a letter and asked them what they felt about the idea; whether they were for it, opposed, or uncertain. Overwhelmingly the response was that they were opposed to it. There was one person who was definitively in support of it, two who were uncertain and did not want to make a decision either way; about 20 signatures of people who were opposed to it. So overwhelmingly people on 114th Street are opposed to it.

Mayor Hornbuckle said at this time he would like to ask Mr. Stuart Robinson to present his concepts on this idea.

B. Kimley Horn -Sidewalk Widening Project

C. ARRA Grant Interlocal Agreement with Miami-Dade County

Stuart Robinson thanked the commission for having him there and stated that Kimley Horn as the transportation consultant to the village has been asked to review a concept and in working with village staff it is our understanding that the village would like to explore the possibility of creating eight shoulders on certain streets within the village. Primarily this consists of re-striping 12 ft. roadways as 9 ft. travel lanes and 3 ft. paved shoulders. We reviewed the information provided by the village, the boards that are presented on either side of the room are the information that we have reviewed and I understand that also is material that was provided to the commission and the ad hoc committee as well. Basically re-striping a 12 ft. travel lane to provide a 9 ft. travel lane plus a 3 ft. paved shoulder would in itself represent a safety village enhancement when compared to the existing condition. Now we have pedestrians, bicyclists and motorists all using the same space on the roadway and transportation agents have found that the provision of facilities is safer than not providing facilities at all when it comes to trying to accommodate bicyclists and pedestrians. In general the striped shoulder would create a divisional illusion of a narrower travel space which should help to contribute to lower travel of these by automobiles; basically a form of traffic halting. Lower travel speeds are also considered an enhancement. The lower the speed at the point of collision the greater the chance the pedestrian will have to survive a crash. DOT has found that the provision of bicycle facilities based on that to be the safest place for bicyclists to be. In fact, it is now part of the state statutes that FDOT will add bicycle facilities to all state roadways. Also the proposed 9 ft. travel lane is a minimum width to meet standards for a local street. The lane can go down to as narrow as 9 ft. and still meet standards that are laid out by the American Association of Safe Highway and Transportation Officials also known as

ASTO. Eight shoulders are consistent with the concept recommended in the comprehensive traffic study update as a form of both traffic calming as well as a provision of a facility for pedestrians. That particular plan recommended the roadways that have medians such as 113th Street and 8th Avenue be considered for this type of treatment because the traveling themselves on those roadways were wider basically 12 ft. already and would not require additional asphalt be provided. The paved shoulder could be made to be consistent with the DOT striping standards with just a few minor modifications that he would recommend to the plan that has been developed. He would recommend that the striping be made consistent with FDOT design index 17346 and 17347. Also Miami Dade County Traffic engineering division which is a division of the county public works department because the county does maintain authority over all traffic control devices and this would be considered a traffic control project.

Mayor Hornbuckle thanked Mr. Robinson for the update and said he thought one of the biggest things in people's minds is that this mostly consists of stripping and is basically a traffic calming measure that is serving and creating the illusion of narrowing the road. He thinks a lot of people are wondering would it give people a false sense of security that now they have this pathway next to the road to walk on so they will not be paying as much attention, maybe the drivers are not paying as much attention or is that just a separate take on it. You did say it is a safer situation not only considered by most traffic professionals but that is one of the things and concerns we have heard at other meetings that people might have a false sense of security.

Mr. Robinson noted that pedestrians and bicyclists in the roadway would still have to exercise the standard of care that they would have to exercise otherwise whether the facility is provided or not and when FDOT was studying whether or not to have bicycle lanes they included as part of their design plan that they had to ask themselves similar questions; would providing a bicycle lane in and of itself be false security or would it encourage bicyclists to not exercise the standard of care they otherwise would have and in their studies they ended up finding the bicycle lanes were the safest way to provide the bicycle transportation. He would draw an analogy from that conclusion to this one that the provision of a facility is the safer condition than not providing the facility at all. Of course it does not rule out the chance that there will still be crashes but perhaps it could prevent crashes that otherwise would have occurred when all the users of the roadway were using the same space.

Mayor Hornbuckle said the other issue was more of a legal issue and perhaps we could ask our attorney by us providing these lanes does it open up us to additional lawsuits and additional chances for us being sued.

Mr. Robinson noted he would defer to the village attorney for a legal perspective but he thinks if you design the road consistent with DOT standards then as a village you are meeting your obligation to provide safe sufficient facilities that meet standards.

Attorney Hearn said from a liability point of view there is Chapter 750 of the Florida Statutes that municipalities are given sovereign immunity and he does not see this as being an issue of liability for the village. Of course you can always have lawsuits but he thinks either way the way it is now it is not a liability issue as long as you give the

standards where the caution is on the drivers and the people are using standard care. The actual facility would not impact the liability so from a liability point of view it is not an issue. Where you get liability on your streets is usually if there is flooding occurring and on the south side that are covered up by branches and you usually do not get lawsuits and if you do they cannot be successful.

Mayor Hornbuckle said this is only the second meeting conducted with the new staff and he introduced the new Village Manager, Ms. Ana Garcia, noting she is a very dynamic and proactive person and also introduced the Acting Village Clerk, Ms. Kim Prenter. He then opened it up for questions.

Commissioner Morris asked if it would be better to put the pathway next to the median rather than next to the swale way area because a lot of people have plantings in that swale that are going to pose a problem. Also, is it better to use the word *alternate way* rather than *safe way* so it does not imply a person can be in the area and be perfectly safe.

Mr. Robinson responded he would add, being asphalt it may be required on the median side rather than the swale side to alleviate those concerns, however if your question was about where the 3 ft. by the swale on the asphalt but on the swale side rather than on the median side. It is most expected from a driver's expectancy point to find a slower moving vehicle on the south and as a driver we would most likely expect to find a pedestrian or a bicyclist on the right side of the vehicle. So he would propose the striping on the right side basically the south side. As to your other question he would use potentially a terminology of just a *shoulder* which would basically call it what it is rather than *safe pathway*. Pathway by itself implies safe and separated from the travel lane by a trail. He would be intended to call it a *safe shoulder*.

Vice-Mayor Anderson asked is the 3 ft. area going to be shared with pedestrians and bicyclists?

Mr. Robinson responded that is his understanding.

Vice-Mayor Anderson asked who has the right-of-way, the pedestrian or the bicycle rider?

Mr. Robinson responded a bicyclist would have to yield the right-of-way to a pedestrian.

Vice-Mayor Anderson asked if a vehicle was driving down the street they need to be aware that a bicycle rider that is in the walkway may swerve out in front of them to go around the pedestrian. Is that going to cause any type of liability for us or safety to anybody? Right now this does not happen.

Mr. Robinson responded that would not cause the village additional liability because by State Statute bicyclists are legal users of all roadways except limited access highways such as I-95. So a driver even today with the situation you have on the street would have to be cognizant that a bicyclist may need to take a lane in order to go around a slower moving person, like someone walking a dog. He said if that condition occurs in the future

there would also be a possibility that if that condition occurs today or if the roadways are not as they are.

Vice-Mayor Anderson asked right now the way people are walking is if they have to be walking their dog they usually are walking by the median and if they are not walking the dog obviously they forget and walk on either side of the street and a bicyclist is usually riding down the street. In other words, in the middle of the street and we feel you should always walk your dog in the swale area no longer in the median. Everybody is always going to be on one side of the street and there is concern somebody is going to step out of that theoretical safety zone hanging on the side of the street. He is concerned about that now and as those pavement areas get worn what happens. There are a lot of intersections with no stop bars and a lot of intersections that are completely worn away and if that happens; what effect to us.

Mr. Robinson responded the proposed concept would not preclude people from walking their dogs in the median if they still chose to do that. As far as the striping goes, it will have to become part of an overall maintenance program for the Village for things like re-striping, stop bars and replacing broken stop signs. This striping if it were to become worn would become a part of that as well. What would be more likely to become worn would be the crosswalks at the intersections sooner than the striping of the paved road.

Vice Mayor Anderson said we would need to make sure we have all foliage cleared out including for the width of the mirrors 6 to 7.5 ft. and we have a 9 ft. walkway. There will not be a liability or pedestrian problems as long as they stay within the line. **Inaudible - noise**

Mayor Hornbuckle said we do not want to make this into a full blown workshop. Mr. Robinson answered the question it is a safer condition and if people are not stopping or going over traffic marks then we have the police department. This is a discussion on concept and not to pick apart every point.

Vice Mayor Anderson said he was concerned we do not go down the route that is unsafe for our citizens. So your answer is by having this painted line it is definitely safer.

Mr. Robinson responded the provision of the facilities has been found to be safer than not providing facilities for bicycle paths. But I do observe as a transportation engineer, the concerns you are making are real and that a motorist may pull up behind a stop bar and enter the crossbar. The same condition does not always apply for the same shoulder because vehicles momentum carries them forward across the stop bar to the cross bar.

Commissioner Mallette asked if our engineer tells us it is safer to have these lines and we pay for them on this portion of the roadway, will we have a future obligation to paint them throughout the rest of the city. Since we designated that this is a safer area are we thereby saying that the rest of our city that does not have them is not a safe area. Have we committed ourselves in any way or opened ourselves up to any potential liability if we do not in the future provide this?

Attorney Hearn responded there is no duty to make the road safer because arguably you could always make the road safer and so the courts do not put that on municipalities. You

as a legislature body determine there is going to be risk no matter how safe you try to make a roadway, how wide or how steep you make the roadway there is always risk.

Commissioner Bernard asked as a village do we have an obligation to maintain our roads, stripes, stop signs and cross walks whether we do this project or not?

Mr. Robinson responded yes, you have a basic level of public works type of ongoing maintenance.

Commissioner Bernard asked well if you think we have to paint these stripes again in five years don't we have to do that now for the stop lines we have paint around the curbs or making sure our median landscaping does not come into our roadways. Just because this village failed to repaint the stop colors for at least two years because we knew it was a problem didn't we still have the obligation to do it?

Attorney Hearn responded when you put a facility in you have the obligation to maintain it. Yes whatever you decide to do when you go from the planning stage to the operational stage that is where the sovereign immunity is no longer there.

Commissioner Bernard asked just as we have an obligation to maintain our streets, don't people whether they are driving, riding their bikes or pushing a stroller have an obligation to follow the rules of the road?

Attorney Hearn responded yes.

Commissioner Bernard said if by designating a space for a car to be which happens to have traffic calming and slows down cars according to the report and which reduces fatalities according to the studies, is there a chance that if somebody decides to walk in the shoulder facing traffic and sees a car coming towards them and sees it is not staying within the lines are we keeping them from getting off the road in any way if they see there is danger of a truck that might be wider then 9 ft. Are we by putting these lines in saying to any pedestrian you are not allowed to go out of these lines one way or the other.

Mr. Robinson responded no, in my opinion and you are not modifying the swale in any way either so if they did have to get off of the road to allow a larger vehicle to pass in the present condition you are not inhibiting that.

Commissioner Bernard said if they can get off the road now, they can get off the road if there is a designated car. Commissioner Morris asked the question should we put the shoulder lane on the median side or the swale side. By putting it on the swale side and by directing the vast majority of our cars because we do have a law which says no thru trucks so for the most part except for some deliveries and our garbage and recycling trucks that work for the village is it not true that by putting that 3 ft. buffer from where the majority of the vehicles are to go from the swale area where someone may or may not park their car that we are further enhancing the safety of somebody walking after their car if they happen to park in a parallel position, open their door and run the risk of a car that has no designated area possibly hitting them with a car door.

Mr. Robinson responded in the sense that you would be providing them with space to format getting in their car then yes you could be seen as enhancing that type of activity.

Commissioner Bernard said and likewise if somebody does not have a parallel space but they have a driveway where they pull into a garage or a circular driveway when they come out or go in because of that extra 3 ft. buffer zone is it not safer for the car to be able to see, have that higher visibility because they have that extra 3 ft., if their car nudges out into it, most vehicles are in that 9 ft. designated lane so they are not immediately coming out possibly into the path of the car. He is thinking of a condition where there is both a parallel and perpendicular driveway where there may be a car in the parallel position and the car is backing out there would still be a 3 ft. buffer outside the swale area that the car could come and have some higher visibility and therefore enhance the safety for the car pulling up and into the traffic.

Mr. Robinson responded in a normal case you could say they would have higher visibility in that sort of condition.

Commissioner Bernard said when you look at the plan as described here could it be any clearer, could it have been described a little better to say that there are not swales that are being affected. In other words where these stripes go on the existing roadway but there is no existing parking or swale that is being affected, there is no landscape that is on the swale being affected that it is solely starting from the edge of the existing asphalt going out toward the median. He noticed from something that Mr. Romano said that we were adding asphalt on two sides of the roadway, greenway; but on one side of the roadway. So the swale area, the area that is outside of the property line of every homeowner. The property line is not being touched; the swale is not being touched. It is only on 114th Street the median that is being touched. He wants to make sure that it is understood we are not even touching the swale area of a resident's property but is truly the beginning of the asphalt side.

Mr. Robinson said the plan does indicate untouched for the swale and the way he understands it does apply to 113th Street and 8th Avenue. The way he reads the plan there is a small section of 114th Street that does require asphalt on both sides instead of only on the median side because of the narrow nature of the existing road. It is basically a 13 ft. road today which allows two way traffic and cars do have to watch that no one is entering one side of 14th Street where they enter.

Commissioner Bernard said and creating a one way street, it is not really a part of this project necessarily but as he was measuring roads he saw that and was concerned about it. Would you recommend that we take the course of action and take that existing non-conforming two-way street and make it a one-way street?

Mr. Robinson responded you are talking about just a small piece of 114th Street that next to the large median area over to a 8th Avenue and if you want to designate that as part of this paved shoulder network he would ask that you consider making that one-way. That is the only way you would be able to maintain a 9 ft. travel lane.

Commissioner Bernard asked can you talk about the cost?

Mr. Robinson responded he reviewed a cost table provided by village staff. He came up with a cost using estimates of pay items from the Florida Department Of Transportation (FDOT) and those are typically used on much larger jobs. However the only difference he would make is to the cost on the asphalt area. He found the FDOT cost to be higher for the asphalt than what was shown on the table. The village did pursue smaller contractors to try to get the costs down over what FDOT uses. If he was to prepare an engineer estimate on this project today it would probably be \$35,000 with a contingency of 15%. It also includes some items that were in addition to the shoulder project that he found on the estimate provided by the village such as improvements to the rec center and amenities along the corridor, bike racks etc which he brought forward into it.

Commissioner Mallette noted shed understands there is going to be some paving in medians that exists and asked if someone could show her exactly where medians are going to be paved.

Mr. Robinson responded the streets that would have median paving would be 8th Avenue between 114th Street and 113th Street.

Commissioner Mallette asked what portion of the median would be paved?

Mr. Robinson responded the first one foot on the inside of the median from the travel lane, the southbound and the northbound. It would be 114th Street not 8th Avenue.

Commissioner Mallette asked there will be no paving of the median on 8th Avenue?

Mr. Robinson responded hat is correct.

Commissioner Mallette asked would the median on 114th Street have paving?

Mr. Robinson responded the median would have paving from village hall all the way to where the wide median ends and the narrow section of 114th Street begins. It is probably about 800 ft. from village hall to the mini round-about area.

Vice-Mayor Anderson asked are you going to pave it on the median side?

Mr. Robinson responded yes.

Commissioner Morris asked are you taking into account surveying this area because we do not know what is under that area. It has been many years since that road has been built, have you taken that into account?

Mr. Robinson responded he surveyed and marked the utilities by the facility. The pavement design of 114th Street calls for a 6 inch asphalt base and a 1 1/2 asphalt surface.

Commissioner Morris said you are talking about \$39,000 and we do not have \$39,000 in this grant.

Mr. Robinson responded the estimate is \$39,000. The grant amount is \$32,000.

Vice-Mayor said we have to take out a couple of thousand dollars for your work so now we are talking about coming up with \$9,000 or \$10,000; correct?

Mr. Robinson responded the \$39,000 includes the contingency fee and the soft cost for the designing survey.

Vice-Mayor Anderson said we would have to take \$5,000 out of reserve.

Attorney Hearn said the amount of the grant is \$32,896.09 with a 5% fee of the award of \$1,644.80 for a total net to the village of \$31,251.29.

Commissioner Bernard said Mr. Robinson is using FDOT standards which are much larger. When he looked at the cost he got three bids for asphalt for this specific job from companies who do that type of work and those estimates had about \$3,500 remaining for contingent fees including design and service.

Vice Mayor Anderson asked can you point out where the bus stop is?

Mr. Robinson responded the bus stop is at village hall and is mounted to a parking sign on one of these diagonal parking spots on the north side.

Vice Mayor Anderson asked will this pathway actually go to the bottom line.

Mr. Robinson responded yes, the other one is at the rec center. The concept is it is tapped into the sidewalk network. There is nothing from a statute standpoint that prohibits bicyclist from using sidewalks.

Vice-Mayor Anderson said so his understanding is the bicyclist and pedestrians use the walkway and what we did to the rec center is divide the road and the pedestrians will be sharing the sidewalk.

Mr. Robinson said in his observation bicyclist themselves tend to use the roadways in the area around the rec center. It could be because they feel comfortable riding in the street because low traffic volume; it could be because there are so many pedestrians and walkers and joggers on the sidewalk that they find it inconvenient for themselves to use the sidewalk. He does not think that condition will necessarily change as part of this project.

Vice-Mayor Anderson said it is his understanding the whole project is to make things safer for the bicyclist and the pedestrians and he wants to make sure that we will be safe from bus stop to bus stop.

Mr. Robinson said the path itself connects the two bus stops. If you are talking about accessibility to the two bus stops for people who live along the route the network of paved shoulders would be how they access the bus stop or the area around the circumference of the park. He does not necessarily think it is going to make the bicyclist use the sidewalk because this condition around the park will not actually change. So if people are riding their bike in the street today they probably will continue to do that under the proposed conditions.

Vice-Mayor Anderson said he wanted to make sure the village is physically connected to those bus stops by the grant for the bicyclist and pedestrians.

Mr. Robinson said you are connecting the two because the sidewalk is your facility connecting the two. At places where people gather or access the bus he would recommend that be where you place the bicycle parking.

Mayor Hornbuckle said the grant is contingent upon an interlocal agreement with Miami Dade County. He is sensing in general people like the concept of additional pathways for pedestrians and bikes but they are just not certain that this particular plan does what they want to do in the manner in which they want it done. He asked when do we need to have something to the county to fit their time line?

Village Manager Garcia said she spoke to the county. The county deals with the procurement so we do not have room for negotiation. If the county tells us that it is going to cost "x" amount and it doesn't she wants to make sure from the budget component we get the support to have the additional funding to finish the project.

Mayor Hornbuckle said we would not move forward if the bids did not come in right. People have always asked for additional places to walk, it is part of our master vision plan to add spaces like that as well as part of the traffic study but this plan in its current form might not be popular with the residents. He feels the plan could perhaps be adjusted for people to really embrace it and questioned what the timeframe was to respond to the county.

Village Manager Garcia said they do not start the process until they receive the signed interlocal agreement from the Village. She questioned if this project could happen without making 114th Street a one-way?

Mr. Robinson said yes. It could happen if you provide a *share the road* bicycle sign and you can say this is a provision for multi mobile on this section of the street. This is one option to reduce the cost of providing asphalt on that narrow section on 114th Street. This option would need to go through the Traffic and Safety Division of the County of Public Works for approval.

Commissioner Mallette said if you are telling me that this project can be accomplished on the narrowest part of the roadway continuing to be a two-way with simply striping and a sign that says *shares the road*, why can't the whole project be accomplished with signs saying *share the road*?

Mr. Robinson said because of the narrow nature of that one small stretch of route.

Commissioner Mallette said that is the narrowest part of the route and it can still be two-way, we can put striping and signs that say *share the road* and you feel that that would accomplish something but then again on the wider street that does not make any sense.

Mayor Hornbuckle said you could do that but his recommendation was to make it a one-way.

Commissioner Mallette said if it simply can be accomplished on the most narrow part of the roadway with striping and still be two-way with a sign that says *share the road* she is not sure why safer conditions would make this everywhere with a sign.

Commissioner Bernard said there is also the issue of combining traffic on that road. Right now to say lets not do anything on 113th Street because we put up a sign it will be safer, will it still be safer, yes to calm the traffic on that one stretch because very few people use it. He does not particularly agree that *share the road* sign is safe as it can be but certainly turning into a one way is.

Mayor Hornbuckle said everyone should keep in mind this is one of those not in my backyard things. Everyone likes the idea as long as it does not go in front of their house. This project is going to be an additional amenity with an additional place for people to walk, push their strollers and ride their bike. It is not some big change over night. The chairman of the ad hoc committee said that they did not vote on this. He asked the commissioners if they would like to ask the ad hoc committee to give their vote on this particular plan or just hear the residents give their opinions on the plan.

Vice Mayor Anderson said the commissioners asked the 11 members of the ad hoc committee to advise us on a bicyclist/walkway for a grant and also to a master plan and he would like to hear since we are discussing this part of the plan which is to do with the money for the stimulus package their recommendation on this plan.

Mr. Bloomfield said he was sure that some of the members would like to make some comments so maybe we can get the consent of the sub committee by allowing them to speak or if not simply give us a vote.

Mayor Hornbuckle asked how would the committee feel, we have conflicting reports about different people taking surveys, different people doing petitions, can we hear some comments from the public first.

Dan Keys asked you said that 9 ft. and 3 ft. were the minimal requirements. You are recommending today that someone create a shoulder roadway system, that is a new situation, planning a new city he would recommend 10 ft. travel lanes 4 ft. wide because it gives you space that is beyond the minimum and is safer.

Mayor Hornbuckle each resident will have two minutes to make their comments or ask a question.

Tanya Myer, 175 NE 114th Street thanked the commissioners and said this project has been something that has been worked on for years and she understands they are looking for opportunities for grants and funding but has great concern that we are talking about safety and a path for pedestrians and bicyclists when in fact the grant is a transportation improvement grant. No one ever gets off of that stop at 114th Street. She questions our integrity for voting on creating under the pretense of something else. If we want to explore pathways that is a separate subject and perhaps a grant opportunity will become available in a few years. She does solidly oppose the plan and overwhelmingly a number of her neighbors agree with that.

Ray Figueroa, 114th Street said he has been a resident of this street for over 20 years and primarily opposes the plan because he does not foresee the cost as being realistic. He feels that even adding 1 ft. of paved area to 800 ft. of asphalt is an expensive undertaking. He is in the construction industry and guarantees this will cost more money then the grant allows. He does not see anyone using this bus stop and all this is unnecessary. He thinks signage to reduce traffic is needed. He feels the streets the way they are right now are safe and does not see a problem with 114th Street. He questioned why 113th Street was picked instead of 115th Street because 113th Street has faster moving traffic and he would put a stop sign to slow it.

Kris Hodges, 751 114th Street said the work of the ad hoc committee is appreciated. Regarding safety and the need for this, he does not see a lot of people walking that route and does not see a pedestrian problem. He is on the bottleneck part, the two way 114th without the median and he does not think it would work. It will never work as a two-way, the plan uses 61/2 ft. and many vehicles are larger then this.

Albert Fine, 715 NE 113th Street said he and his wife are walkers and there is heavy traffic in the morning on 113th Street. When he walks in the evening he uses a flashlight to try to slow the traffic. We should not put a band aide on something and is not sure what we are talking about is going to be safe. Perhaps a light or stop sign would work just as well. Something as a temporary measure should not be done; we should do something to really make the walkways safe.

Dr. Dee Berguron, 225 NE 114th Street said one of her concerns was that police officers have to go down 114th Street when they leave the police station to go out on a call and to have that narrowed to a point that they are moving fast and not being able to have anymore than 9 ft. of space, she thinks the city requires 12 ft. for a driveway so why would you have 9 ft. for a roadway that people have to travel on. She is totally opposed to this plan, partly because she lives on the street and it does not make sense to spend this kind of money. There is no set cost for it yet or funding and we have already been told it is going to cost more than the grant.

Wayne Whetzel 767 NE 114th Street said he has lived here for 37 years and is totally opposed to this plan. It is peaceful and quiet now and to come in to make it busier and more confusing with no signs is very upsetting to him. The money should be spent somewhere else.

Mr. Charles 325 NE 114th Street said he does not want 114th Street to be one way. He has never seen anyone get off the bus at the city hall. He suggested running the bus down 113th Street coming up 6th Avenue affecting only one house. It is a peaceful quiet neighborhood and he likes to walk the median. He feels no one will slow down because of a stripe on the road.

Michael Glen, 801 NE 113th Street said he would be affected on both sides of his property by this proposed plan. He is concerned about the safety of proposing a 9 ft. walkway. Why not use 115th Street which is a smaller road and smaller access. He feels the whole plan is not a good one. It was indicated Miami Dade will use larger vendors and their cost will be consistent with what the engineer indicated. In addition it was indicated we

will not have a choice over what the cost will be and if we commit to this will be able to stop the process if it came in at \$50,000 or \$60,000. There are still questions going forward regarding the master plan. His recommendation is for everyone to vote negative against this project.

Mayor Hornbuckle asked if there were any other public comments. There being none he closed the public comment section. He asked if Mr. Kuhl would like to have the committee vote.

Mr. Kuhl said he would like to have the committee voice their opinions but first he has a question for the engineer. By state law bicycles are required to go in the direction of traffic and by state law pedestrians are required to walk safely in the direction of traffic so if we had this lane we have a conflict of bicycles going one way and pedestrians going the other, is that not correct?

Mr. Robinson said bicyclist have to yield to pedestrians.

Commissioner Bernard said Kimley Horn said that this is not a designated bike lane. The bicyclists use the road; this is a shoulder lane for pedestrians.

Mayor Hornbuckle said anyone on the committee who would like to make a statement is welcome to do so, please keep it under two minutes.

Bryan Cooper, NE 115th Street said it really comes down to safety and it was stated by our engineer that we will have a safer environment if we do this. He has seven names of people who are for it. He noted Mr. Romano had 20 people who were against it on 114th Street. At one meeting it was reported it looked like a 50-50 split on 114th Street so you will find the community is fairly divided on this but he does not think this will make any more pedestrian traffic than we currently have. Statistics indicate 10 people per day use the North Miami shuttle. He spoke to Jeff Cohen, the engineer, who felt the city would approve this and it was an excellent idea and would lessen the village's liability. Mr. Cooper said if a child gets hit between these two points and we do not take these federal dollars another attorney will make payable even though there is sovereign immunity the village could be liable for \$250,000.

Victor Romano, 114th Street said if you are going to walk between village hall to the rec center this is not the shortest route. Pedestrians tend to take the shortest route. The shortest route would be to go up 114th Street turn left on 8th Avenue and then go down 115th Street. Pedestrians are not going to go out of their way because of a stripe in the road. We can spend all this time, energy and money and people are not going to use it because they are going to take the shortest route. There is also concern among the residents of 114th Street about the negative impact on the greenway. Those who live on the greenway pay a premium to live there and we want to make sure that is not negatively impacted and without question this will impact the greenway. Another concern is construction and we do not want to deal with the noise, or people walking their dogs or joggers running in front of our houses.

Barbara Kuhl said we are supposed to be linking the path to the 6th Avenue bus so the fact that it is stopping at village hall still needs an area. A traffic study was done not so long ago and it mentions pedestrians need a place to walk and a shoulder, they considered 113th Street, 115th Street, 8th and 10th avenue. They chose 10th avenue because on the other streets if they made the roads narrower and increased the swale area they would have to remove some trees. No one has spoken about the effects of moving the traffic over and having trees removed. We have lanes that are two different sizes, on 8th Avenue and 113 Street there is road striping on the median and the swale, on the north lane 11 ft. 4 inches, she measured four different locations and that is the lane width; the south lane is 12 ft. 3 inches so if we were to use 113th Street the 11 ft. 4 inches we would have to add asphalt.. She realizes a complete study was not done but in the report she thinks the lanes were mixed up. The Kimely Horn report listed 115th Street as having 11 ft. lanes so it probably figured 113th Street which said to have the 12 ft lane would not have to affect the asphalt. Neither the commissioners or the planners want to call this a bikeway or a walkway because neither one of those really fit the criteria. If you call it a bikeway or a walkway everybody worries about liability. Everywhere you have cars next to pedestrians I do not care what the engineer says I would not feel safe. This commission is negligent if they move forward with this and tell people this is a safe place to walk. Another thing brought up at one of our meetings is why do something when so many people are in opposition. Let's do a comprehensive plan and do a really good job where everybody is in agreement.

John Ise said he is in favor of everything and anything that goes towards enhancing the pedestrian fomentation of this community, that promotes pedestrian public safety and promotes traffic volume. Kimely Horn has stated that this proposal while it may be imperfect promotes a more pedestrian fomentation of this community, promotes a safer environment for pedestrians and has the effect of traffic calming. He thinks this is essential and a very important point. His concern is if we say no to this and wait for the next plan there will be opposition to that plan and as we take any proposal that makes us a more pedestrian oriented community that there will be opposition to it at every stage.

Chuck Ross, 1166 Griffin Boulevard said he echoes what Mr. Ise said and agrees you have to start somewhere and be sensitive to the people who might be impacted but to him this is something he would like to see done throughout the village if possible. He would like to see it in front of his house. There is safety, cost and liability and will the county allow us to do this. It is safer, the attorney said liability is not an issue and it will have to be approved by the county. Funding is an issue but if we are getting \$31,200 it is free money for a plan that will hopefully make the village safer and hopefully the beginning of extending it throughout the whole village and perhaps we can find the needed funds possible from the CITT funds.

Karen Cohen thanked Mr. Kuhl for his leadership on the committee. She feels the process was too flawed from the beginning. There has been no study of how this will affect the values of homes on the route. She understands the general study by Kimley Horn is that it is safer to have a pathway then a roadway but she does not think there is a study of the safety of this particular path including the fact that many people park on those swales and there are cars and trucks that back up. It is hard to see children and people walking there and she does not think we have that safety information. If you read the first proposal it was to attach the North Miami bus to the metro bus. She worries

about people going onto the swales. She thinks we can get further grants and does not think we can come together on this plan and let's move on to something we all can agree on.

Dan Keys, 1107 NE 118th Street said he has lived in the village 41 years and has walked the community as a 10 and 15 year old and has always felt it is his responsibility and duty to keep himself and the other people on the road safe. He believes that walking in this perceived safety zone will not be as safe as him seeing cars coming and getting out of the way. He does not believe this is a safe plan. We are creating the minimal acceptable facility that has some additional variables such as our trees that make it less safe. He does not want to see white lines down the avenues. He is against it because he does not believe it is safe.

Gary Kuhl, 777 NE 111th Street thanked the commissioners and Bryan Cooper for the time and effort they have put in. The original concept was a green light but we are far from that. The grant proposals specifically talked of providing a bikeway and a walkway and a connection to mass transit Miami Dade public transit and this does not accomplish that. As a practical matter it does not allow people to walk side by side. As a practical matter he does not think this works and we are just taking money and squandering it and possibly getting ourselves further in debt. He would like to pursue this and likes the idea of master planning and is in favor of pathways in appropriate areas and creating a safe isolated walkway for pedestrians.

Jane Ansley said she really loves this plan and thinks it is a minimally invasive way to improve the experience of pedestrians of Biscayne Park. The money is there, we have to use the parameters of the grant and that is what was designed but if we can get passed that and you think we are a community that needs to do something for their pedestrians this is a simple small place to start. However I accept Mr. Romano's data for the residents on 114th Street and if you have people on the route who do not want to do this I do not see how the commission can force them to do it. It is just not the way to proceed. Like Mayor Hornbuckle said it just does not seem like it is the thing to do at this time.

Mayor Hornbuckle asked if anyone else had comments. There being none he asked the committee to vote on whether or not they are recommending this plan as presented or if they are not recommending this plan.

Commissioner Bernard said an issue has not been mentioned. This flyer was sent to over 60 houses with a clear indication it was for public interest to hear from people who were on the route and a few beyond the route and how they felt. It was on the website. Of those 63 houses that were on the route 16 of them according to Victor Romano surveyed are opposed to it. There are people who sent emails that are on the route that have said that they do want it including someone on 114th Street who is an urban planner and trusts what it is and has a child he pushes in a stroller and several other families who also have little children. In addition to that there were 20 people throughout the village who were not on the route that we all saw the emails from that said not only do they think it is a good idea but they wish it would be in front of their house too. In addition there were people on the route that did agree with it but were not invited personally to come to a meeting because they thought their indication on their email was worth it. So when you

heard from 8 residents tonight and their opinions are very valid and their passion is clear but it is not just the people who are here that are speaking against it there are people we saw on an email that are on the route that said they do want it. So it is not a matter of forcing it on anyone. Of the 63 people that were given flyers according to Victor Romano and the emails we got 16 out of the 60 said that they did not want it. In the September 30th committee meeting there was a unanimous decision to come up with a survey and the purpose of the survey was to determine what the people on the route and the people not on the route thought about this project. The way a survey works with a committee and as it did with the recreation board and as their minutes say that it would be designed, it would be discussed, it would be vetted, it would be agreed upon and then it would be issued to the community at large. What Mr. Romano has done and he is no way near denying the accuracy of people who said yes or no, but it is not a part of this committee and it should not be seen as part of this committee because the survey that was suggested and unanimously approved was not whatever survey that was taken it was to be designed and vetted, we all saw the value of that in the recreation board and that did not happen here. He does not think we can consider this map as an official city document. Obviously we can look at the 16 houses that are on here and say those people on the route did not want it but he knows personally of several on the route that do want it that were not approached.

Mayor Hornbuckle said we are going to get into nit picking and trying to split hairs here. He thinks everyone here will be willing to accept that the survey is a survey that is an unofficial one that was done by a lay person who was not vetted but the results of the survey are fairly clear and he does not think they have been skewed in any way and let us take it for what it is.

Commissioner Mallette said we can all interpret the information we received from the public and from the committee.

Commissioner Bernard said the committee did not get the package and emails we got, is that correct? So if Ms. Ansley said she came here thinking she liked the plan but after seeing everybody on the route did not want it she is feeling a little differently, he is here to say they did not get this packet of emails with all the people who said they did want it, including people on the route and to think because this room is filled with people who do not want it and 8 people said please do not do this in front of my house this committee is not aware of emails we got from other people who are on the route who absolutely said they wanted it but were told that they did not have to come to the meeting because these emails would be heard. He thinks it is important dissention because if Ms. Ansley thinks there is no one on this route that wants it that is an incorrect assessment.

Mr. Romano said he never told anyone they did not have to come to this meeting and he does not believe the commission should be telling the committee to go ahead and say what they should or should not do. We have a chairman on the committee.

Commissioner Mallette said the emails were sent to the commission because ultimately the commission does make a vote on whatever the committee presents.

Mayor Hornbuckle said we are going to hear the recommendation of the committee we appointed and then we are going to vote. We have all talked enough.

Mr. Cooper said the interlocal agreement essentially is just asking us to commit to connecting points A and B. We do not have to stick with this plan, this was crafted at the last meeting but we can put it on 115th Street or all the way up 113th Street and cut it over. He thought this meeting was about approving the interlocal and that there still was time to discuss what plan could be created. So to do a thumbs up or thumbs down vote on just this particular plan, when he thought the issue was more about the interlocal agreement. We can still continue to be somewhat flexible.

Motion was made by Mr. Keys, seconded by Ms. Cohen to defeat this plan as presented. The motion carried by voice vote, 6/4.

Mayor Hornbuckle said the recommendation of the committee by a vote of 6 to 4 is to defeat the plan as presented and also not to move forward with the interlocal agreement. Since there is time he asked the commissioners if they wanted to vote on this plan, funding and project or do you want to vote and discuss whether or not we can try to have any other discussion in the time frame to November when we have to get to the county about another proposed plan.

Commissioner Bernard moved we vote on the contractor to be signed so we can stay in the process because once we sign that contract and according to what our manager said the deadline to complete the job is 2012 but if you sign this interlocal agreement then we can proceed with more engineering and a tweak plan so the people fully understand it or can accept whatever changes have to be done. This is a reimbursement grant so if we proceed and we pay our engineer to create a plan and then to get the bids and if those bids come in high and we do not get the funds, we put the plan on the shelf until we do find the money and we are not committed to anything on the grant. If on the other hand we bid it and it comes within the budget then we can proceed and we have until 2012, is that accurate?

Attorney Hearn said the way the grant is set up is the plans obligation is if you cannot complete the grant all plans you are obligated for you will be accountable for your costs.

Commissioner Bernard said which at this point is less than \$3,500 because he understands that includes construction administration and those funds can come from CITT road funds and he points out the 6th Avenue project which this commission approved was for \$75,000. THE DOT said by their estimates it is going to be \$36,000 more than that and this commission approves \$36,000 over what we were getting on that federal stimulus for that project. After the bids were done and after they came in much lower maybe as much as \$20,000 lower we are still committed to the funds but it is \$20,000 less which means because we are getting it from the CITT we have \$20,000 that the commission approved for a beautification project that we can put directly towards a safety project and if \$3,000 goes toward the engineering we are not out any money at all.

Motion was made by Commissioner Bernard to approve the interlocal agreement knowing it is a reimbursement type project.

Mayor Hornbuckle said ultimately if we approve that project and it does not come in at cost or if we decide for any reason we do not want to continue with it we do not have to.

Attorney Hearn said the earlier in the process the less the cost.

Mayor Hornbuckle asked for a second to the motion. Motion died for lack of a second.

Motion was made by Commissioner Morris Anderson to turn down the grant, seconded by Commissioner Mallette.

Mayor Hornbuckle said the motion is to go ahead and turn down this particular grant and basically end this project in this format.

Vice Mayor Anderson said and then the ad hoc committee can continue along as they have been charged with the master plan.

Mayor Hornbuckle said the commissioners had not really had a chance to comment so we will allow them time to make comments.

Commissioner Morris said this is a bad idea. We are accepting money that is for transportation and it is not being used for transportation. You are putting a walking path and he thinks that is wrong. \$8,000 over budget and he does not think it is safe and thinks it has to be 10 ft. and 4 ft.

Vice Mayor Anderson said we are rushing and we need to get the community involved and let the committee do their job to see if we have safe pathways within the village. Come forward with a good plan and the engineer study it. He is against using the CITT funds except for what they were for putting in drains. We have a grant and we are waiting until we get enough money again to do the next phase, we have a master plan and are doing it in phases. This is the way we should do anything that is going to be costing a lot of money.

Commissioner Mallette thanked the committee for their time and effort. She thinks the people bought their property with the expectation of being on the median as it is. She was hit by a car as a child and striping would not have helped her, she was not paying attention. She has to consider those who bought their property with a certain expectation and is opposed to the plan.

Commissioner Bernard said he is also representing the dozens of people out there that say we need to have safer streets and he understands everyone is here because they disagree with it but he has gotten more emails then are in this package from people saying we should do it. We came up with a concept and the federal people approved it. Several other cities came up with a concept and we answered these questions and the federal government said we are approved. It is not to link one station to another station; it is to shorten the distance of un-striped unsafe streets. As far as using 114th or 115th Streets it is exactly the same, the station is in the middle of the street and is the same whether you go north or south. We are doing a project on 6th Avenue spending \$36,000 for beautification, there is construction there, removal of trees, curves where there were no curves before and we had not one meeting, workshop or committee so to say lets get public input

because we want to see what the people say that we did not do. When a couple of years ago we were looking to hire another police officer and you had 5 petitions of 100 people it was disregarded. When a resident wrote a letter about the management selection process and how terrible it was and 30 residents signed it not only was there no action taken, there was no response. The only time we had people speak on the manager selection process was on September 1 when everyone said please do not do this, please re-advertise and they were completely disregarded.

Mayor Hornbuckle said please stay on the topic.

Commissioner Bernard said Commissioner Anderson said he wanted more public input, we had public input. We had three months of committee meetings that came up with not one plan. CITT funds, he truly does not understand why they were prepared to spend \$36,000 on beautification and not one penny on safety, not one. Our engineer has said that what we have now can be enhanced safety wise by painting stripes on the street and calming the traffic. If someone thinks that they do not want to walk on the 3 ft. walkway they are not forced to do so but the very act of barreling the roads is a proven try and true traffic calming procedure and if we did it on 113th Street and 8th Avenue because the roads are already 12 ft. wide and we can do it on 8th Avenue from Griffin all the way up to 121 Street the people he spoke to on those roads said they want a 3 ft. barrier between their house and a vehicle. They want a place where if they are walking and they see a car coming towards them that is not against the line they will get off. Two little kids were hit by a car two years ago. If you had two little kids that were hit by a car you would do everything you could to make the street safer and that is what this commission did. A group of residents got together and they said how can we make that street safer and we came up with short and long term goals and this commission voted to support that. You also agreed to long term goal commitment, a traffic study and you did it. The traffic study was done and no one looked at it or you could have seen that a shoulder was acceptable but more important you agreed to provide dedicated protected paths for pedestrians, bikers, strollers, dog walkers and children playing to the maximum extent that it can throughout the village to reach the most residents and homes. The long term solution being to separate cars and people from the same right of ways to the greatest extent possible and what is likely the best way to provide for long term safety of our residents and our children. This is what this committee did. We have not done for 2 ½ years because we do not have the money, we do not have the ability. We do not have the people that are ready to do it, well it is all right here. The county says we can do it, the engineer says we can do it, the lawyer says we can do it, the federal grant people say we can do it and we are throwing it away. He thinks that our first responsibility to our residents is safety and we have the ability to make it safer and he understands Doc, you do not think it is safer, but the engineer says it is.

Mayor Hornbuckle said he is dismayed at how intensive this has become. Sometimes in these different projects we have said we need to find creative ways to bring amenities to the village without spending a lot of money and by finding grants. Here some folks went ahead and did that and folks are against it. He thinks they are being a little shortsighted. If you remember we did several street closings mostly along 5th and 6th avenues as an experiment and as a temporary measure for about six months and then we went and saw how it worked. It turned out all of it worked great except for one which seemed to make

things worst and did not help the homeowners along there and everyone said that did not work lets take it out. That was the corner of Griffin and 6th Avenue. Nothing we do is set in stone and we are being emotional and not looking at a long sighted approach to this. The other thing is if you remember there is always opposition to every project we do. We talked about putting a sidewalk in around the rec center and the park. We had a very similar outcry and at least as many people were opposed to that as were for it and now you see it is probably one of the most used and loved amenities that we have in the park. So we could look at this as an experiment, try it and see how it works for our community. It is safer than it is now and it is a start of making our community more pedestrian friendly. We could do this as an experimental project and see how it works out and if it works use it and maybe expand it, if it did not take it out. That being said he is not in agreement with the way the motion was said especially because it was to kill the grant and he thinks if we do have a little time where we could move forward and try to come up with some other ideas, he is going to be opposing the vote to kill the grant. He thinks we should try to move forward and come up with some ideas and have a start to making our community more pedestrian friendly.

Commission Bernard said before we vote he would like to hear the manager's recommendation.

Mayor Hornbuckle said considering the short amount of time she has been here, the amount of time she has had to digest a lot of different things, he thinks you are really asking her for a personal opinion at this point because she is taking into consideration not much more than we have and the committee and the community has. That being said he asked Ms. Garcia to answer for herself if she would like to make any comments or what she thinks about the plan.

Ms. Garica said since she is from the Department of Recreation she is all for safe pathways and walkways. As a matter of fact she just got her second quote on trying to finish the walking path around the community center because she sees a lot of people using it. She is also about not doing minimum standards but exceeding standards. She would hope that is what they want from her. There has been talk about making 114th street a one way. To rely on the county to make that a one way to make this work may not be the option. She is starting to hear the 08-09 budget is in the hole from what she has been told by the finance director. She realizes the Commission is going to have an expectation of her and other department directors to come in and deliver a budget next year that is acceptable even though she is starting in the hole. That concerns her we may be \$7,000 or 8,000 over. She took this job knowing that the Commission may not always like what she is going to say but she cannot compromise her integrity and what she thinks would be the safe thing to do. What she sees right now as safe, for the safest possible thing we are doing right now is a walkway that we have along the rec center. She is looking forward to completing this project and she would like to continue the envisioning process to be able to have safe walkways and perhaps do something with the medians. Additionally, possibly looking at a national plan that ties our parks and amenities and other grant opportunities like that.

Mayor Hornbuckle called for a roll-call vote. The motion carried 3/2 as follows:

AYES: Commissioner Morris, Vice-Mayor Anderson,
Commissioner Mallette

Nays: Commissioner Bernard and Mayor Hornbuckle

5. PUBLIC COMMENTS RELATED TO AGENDA ITEMS

6. GOOD AND WELFARE (PUBLIC)

7. REPORTS

A. Village Attorney Comments

B. Village Manager Comments

8. ADJOURNMENT

There being no further business, the meeting adjourned.

Commission approved _____

Attest:

John Hornbuckle, Mayor

Kim Prenter, Acting Village Clerk

THE TRANSFER OF FUNDS AND UPDATING ACCOUNT INFORMATION; PROVIDING FOR AN EFFECTIVE DATE

Attorney Hearn read the title of the resolution.

Motion was made by Commissioner Bernard, seconded by Commissioner Anderson, to approve Resolution 2009-20.

Vice-Mayor Childress noted commissioners should not be signers; it should be the authority of the Village Manager and someone else in the administration such as the Finance Director as a second. Commissioners are policy makers and he personally does not want to sign checks.

It was proposed the Police Chief be a second signer.

Commissioner Bernard recommended all commissioners sign. It is a learning experience on how the Village funds are spent. He encouraged the Mayor to sign all checks and other commissioners be added as backup.

A discussion ensued on check signing and it was suggested the resolution be approved as is, encouraging the Mayor and Village Manager to sign all checks but all the commissioners remain on the signature cards as backup.

The prior motion carried 4/1 with Mayor Ross, Commissioners Bernard, Anderson and Cooper in favor and Vice Mayor Childress against.

11. OLD BUSINESS - None

A. Reconsider Interlocal Agreement with Miami Dade

Commissioner Cooper noted the prior commission voted not to proceed with a grant for \$33,000 from the Federal Transit Administration. The deadline has changed and there is time to reconsider this action.

Motion was made by Commissioner Cooper, seconded by Commissioner Bernard to reconsider last month's action to cancel Interlocal Agreement with Miami Dade County. On voice vote motion carried 3/2 with Vice-Mayor Childress and Commissioner Anderson voting no.

A discussion ensued with regard to the Interlocal Agreement with the outcome being the Village Manager was directed to pursue options and investigate the possible change of scope and this item will be carried forward to January.

Discussion ensued with regard to the North Miami Density Board program with the outcome being this item was deferred to the January meeting with direction given to Village staff to begin working with North Miami staff.

12. NEW BUSINESS

A. Discussion of the Ecology Board and its purpose (Commissioner Bernard)

village clerk

From: bryan cooper [bcooper839@yahoo.com]
Sent: Thursday, December 17, 2009 1:11 AM
To: attyhearn@aol.com; villagemanager@biscayneparkfl.gov
Cc: villageclerk@biscayneparkfl.gov
Subject: Concerns; problems....with tomorrow's rushed decision

Ana & John:

Below are my considerable concerns, and questions...reflecting what I think we owe residents for improving multi-modal safety in our Village.

1. It is pretty clear now that you are now NOT presenting this just as a "possible" scope change for future public discussion and vote on or after January 12. After tomorrow it will no longer just be a *backup* for if we do not move forward with a successful workshop for an alternate linear route...e.g. on 113th on or after the 12th --- but instead your action tomorrow will be an irreversible change after filing with MDT? Am I correct?

3. If so, by doing this, are you not setting us up to kill an originally approved project (by FTA Atlanta at the federal level) --- and before a next Commission meeting or workshop where both plans could be discussed publicly before our constituents?

4. Can/will you poll the Commission about the *2 choices* and their views of each, and remind them of the path inherent in our State approved comp plan, including the possibility of 113th or another route.....when you present them the question of scope change?

5. Have you read our State comp plan and how this change might impact it? Or, have we considered how the loss of this start to safer roadways could impact our ability to tap into state/federal funds for more internal livability and safety initiatives?

6. After your decision tomorrow, will you present to all Commissioners and the public the suggestions/thoughts of each Commissioner (yea/nae) and how it impacted your decision?

*(I have concern about a previously publicly discussed and voted item, which now falls under a new Commission with new outlook, being removed from public discussion with a suggested scope change a day before a deadline, when in fact we don't need to make a scope change if we are going to stick with working toward an original green-way effort using shoulders...and in a new location that might not have as many problems).

6. Last, Ana: will you specifically ask MDT if we can keep alive BOTH options as long as possible until we can have public workshops in late January or February to decide on the start parameters in March?

7. And, John: It is my understanding that your and the Manager's role is to make sure no discussion starts outside of Sunshine, but that uni-directional information and position statements are NOT a Sunshine violation and it is up to management to direct factual information or information statements that have been Sunshined at past meetings for reconsideration; especially if the reiteration is archived for public access through email; and if they are instructed to not reply to me? I hope this is still the case, and that Ana does not see a problem in posing my questions to the rest of the Commission on such a time-sensitive decisions.

12/17/2009

As a side, yet important, note: I sincerely hope Ana we are not trying too hard to dodge the original idea, when so many people were genuinely for making our streets safer while, unfortunately, at the same time, there was clear misinformation from a few committee members that caused a little public resistance -- and from a relatively small vocal minority of residents on only one segment...with the "silent" majority in our Village and our comp plan directives not being considered adequately along with the rest of the people on/near the possible routes who liked the idea of safer roads.

Finally, I have been advised (and it was clear to me) that in some cases, there was outright false information presented by committee members publicly and at meetings (and in fact some minority ad-hoc safe-pathways committee members who were for the shoulder idea recognized this as occurring), and that it was intentional, and that this could be an ethics / charter violation with county & state action pending the direction of the final outcome. I will work with John later on the ethics violation question, but just want you to be aware -- in part because if past misinformation is documented, and it can be shown to be violations of our Charter and truth in government, then there would be a visible tainting of government process that started us toward this suggested scope change -- instead of working toward a plan already approved the FTA Atlanta, etc..

Bryan

From: "attyhearn@aol.com" <attyhearn@aol.com>
To: villagemanager@biscayneparkfl.gov; rox@roxross.com; albertchildress@yahoo.com; steve@stevebernardarchitect.com; anderson11905@gmail.com; bcooper839@yahoo.com; albert.childress@cityofdoral.com
Cc: villageclerk@biscayneparkfl.gov
Sent: Wed, December 16, 2009 4:43:33 PM
Subject: Re:

Thanks Ana. Again please only contact Ana and do not e-mail other Commissioners. Thanks.

-----Original Message-----

From: Ana M. Garcia <villagemanager@biscayneparkfl.gov>
To: rox@roxross.com; 'Al Childress' <albertchildress@yahoo.com>; 'Steve Bernard' <steve@stevebernardarchitect.com>; 'Bob Anderson' <anderson11905@gmail.com>; 'bryan cooper' <bcooper839@yahoo.com>; albert.childress@cityofdoral.com
Cc: attyhearn@aol.com; villageclerk@biscayneparkfl.gov
Sent: Wed, Dec 16, 2009 3:38 pm
Subject: FW:

Good Afternoon Mayor, and Commissioners, I have been in communication with the county in regards to the ARRA (American Recovery and Reinvestment Act), and we have our answers. We can sign the interlocal in the January 12th meeting and submit to the county with no problem.

In regards to a scope change we have to submit them a brief narrative by end of business day This Friday the 18th (the email sent yesterday said the 17th) but per our conversation today they informed me it was the 18th. To be on the safe side I will send them the narrative no later than Thursday.

The first attachment is an example of Virginia Gardens Interlocal Agreement. The second attachment includes all the cities and what they are doing including Biscayne Park number 30. The key to this attachment is that we can change the scope, but only to include what has been approved for another City. We can have New Benches, Trash Bins, Bike Racks, Signage and Lighting to be included in our new scope, but we cannot have Wi Fi, as had been suggested.

I had also inquired about Bus shelters, but even some of the most inexpensive ones would blow the 31k budget. (Example Aventura Bus shelter 100k installed)

12/17/2009

My Recommendation based on what we can get for the money that serves a dual purpose is the following; Benches for the Park that are backless and can be used by those waiting for the bus as well as those watching a recreational activity, or simply someone resting after a run or walk around the path. I would also include matching trash bins, a bike rack a lighting component, ADA accessibility, and a signage component. I would recommend a similar Scope for Village Hall. Village Hall, and the Park are the two stops for the Nomi, There is a need in both locations to include the above mentioned items, and the budget would allow for some really beautiful amenities. The median adjacent to the cabin is a linear Park, we do get individuals riding their bike to Village Hall and we do get people coming over with their little ones as just the other day I met Grisset Roque with her toddler, they live right on 6th avenue.

Please provide me your comments or call me to discuss. I will forward you the other email I received from the County yesterday. Thank you.

From: Maple, Celestine (MDT) [<mailto:mapl@miamidade.gov>]
Sent: Tuesday, December 15, 2009 6:40 PM
To: agarcia@biscayneparkfl.gov
Subject:

Per our conversation. Call or email any time.
No virus found in this incoming message.

Checked by AVG - www.avg.com

Version: 9.0.716 / Virus Database: 270.14.110/2568 - Release Date: 12/16/09 03:02:00

12/17/2009

village clerk

From: bryan cooper [bcooper839@yahoo.com]
Sent: Thursday, December 17, 2009 7:59 AM
To: attyhearn@aol.com; villagemanager@biscayneparkfl.gov; villageclerk@biscayneparkfl.gov
Subject: Re: Concerns; problems....with tomorrow's rushed decision
Forgot to include reply all, see below.

Thank you John for your quick response. I have a few more questions, and please forward to Ana as necessary:

1. If no straw vote is allowed, then it seems to me that what Ana is doing through informal communications is developing an majority opinion to help guide her actions. This to me does not seem to be government in the Sunshine, if the public is not made formally known who suggested what to her and how for such a decision of public impact, especially when this was supposed to be decided at the January 12 meeting and/or future workshop.

2. You and I will need to discuss the conduit function later with the State attorney, as I believe it only applies to being a conduit for "back-and-forth conversation"...but correct me if I am wrong. (note: I understand your concern to not let things get out of hand, but when Sunshine -- which is designed to keep the public involved and provide for archiving regarding the decision process -- also limits transparency and a Commission members right to articulate, uni-directionally and without collusive conversation, the need to keep this process moving in a public venue, then there seems a problem.

Also, in the past, it was my understanding that you gave credence to the right of commissioners to deliver one-way communiques, as long as there was no back-and-forth responses allowed.

I know this is a fine line, but I will pursue it as I think it is partially the key to reversing our culture of inaction and lack of past transparency.

So, can you please advise asap what you feel the attorney general of Florida would allow --- specifically regarding my sending an email today stating my concerns to our Mayor and Commission via blind-carbon-copy (bcc) to the effect that we should NOT accept this watered down version of the grant outside of a workshop to try to secure the original intent alligned with our Comprehensive Plan.

Thanks John.

Bryan

From: "attyhearn@aol.com" <attyhearn@aol.com>
To: bcooper839@yahoo.com; villagemanager@biscayneparkfl.gov; villageclerk@biscayneparkfl.gov
Sent: Thu, December 17, 2009 7:24:11 AM
Subject: Re: Concerns; problems....with tomorrow's rushed decision

Bryan, Ana can (and I am sure she will today) discuss with each Commissioner their understanding of the direction given at the last meeting. This will include concerns that she sees (and facts that she learns whether from Commissioners or otherwise) and has which I am sure include your concerns. She cannot however act as a conduit between each commissioner. She also cannot have a straw vote of any kind

12/17/2009

B. Consideration of South Florida Park Coalition Resolution 2010-3

Motion was made by Vice-Mayor Childress, seconded by Commissioner Anderson to consider South Florida Park Coalition Resolution 2010-3. On voice vote motion carried 5/0.

C. Consideration of FDACS – Forest Health Initiative \$24k non matching grant to trim trees Resolution 2010-04-

Moved to consent agenda and approved.

D. Consideration of Resolution for Public Comment on 1st reading Resolution 2010-06

Motion was made by Commissioner Bernard, seconded by Commissioner Cooper to consider resolution for public comment on 1st reading Resolution 2010-06. On voice vote motion carried 5/0.

11. OLD BUSINESS

A. Report on ARRA Grant –

Interlocal Agreement with Miami-Dade County- Manager report of recommended changes attached.

Recommend attorney to revise agreement to reflect scope changes as provided by Manager Explanations.

Manager Garcia discussed with Miami Dade County the option of making changes/adding to transit points. Clerk provided map to all commissioners along with the recommendations from the manager. Report and Map attached.

1. Take 114th out of NOMI route since such a narrow road.
2. Enhance stops to go with transit points.
3. Recommends creating a total of six stops for better resident utilization.

Motion was made by Commissioner Cooper to sign the interlocal agreement at this meeting, and then discuss the details of how to use the funds at another meeting, or budget workshop.

Manager Garcia requested further direction on how the commission would like to proceed with the grant. The options include: Continue with pathway; Go with transit points only; work on a little of both?

Motion was made by Commissioner Anderson, seconded by Vice-Mayor Childress to accept Ms. Garcia's recommendation based on the map provided and recommendations provided at this meeting to amend the agreement to include these recommendations, and to take out the pathway.

Commissioner Bernard reminded the Commission that Commissioner Cooper had already provided a motion, to which he provided a second.

A Vote was held on Commissioner Cooper's motion to sign the interlocal agreement at this meeting, and then discuss the details of how to use at another meeting, or budget workshop. The motion did not pass on vote as follows:

Ayes: Commissioners Bernard and Cooper

Nays: Mayor Ross, Vice-Mayor Childress and Commissioner Anderson

Commissioner Anderson reiterated his motion. To accept Manager Garcia's recommendation based on the map provided and recommendations as provided at this meeting to amend the agreement to include these recommendations and to take out the pathway

Motion: Amend the current Interlocal to allow for amenities and follow the changes as proposed by the Manager taking out the pathways. The motion passed on vote as follows:

Ayes: Commissioner Anderson, Vice-Mayor Childress and Mayor Ross

Nays: Commissioners Bernard and Cooper

Further Direction was provided to the manager:

- Propose route to CITT and NOMI for their confirmation.
- Then proceed with getting costs
- Focus more amenities at the recreation center and then move forward from there based on remaining budget allowance as determined by vendor pricing and final scope.

Additional discussion to get resident input on the proposed bus stops as compared to the requested public input on the pathways project.

B. Discussion of Candidates for Ecology Board- moved to 14b1

C. Discussion on Replacement of Code Board and Code Review Board Members- moved to 14b1

**D. DISCUSSION ON NORTH MIAMI LAND USE -
COMMISSIONER COOPER - ADDED AT THE MEETING**

Clerk passed out a handout of the N. Miami Future Land Use map which relates to items that Commission Cooper requested to discuss.

- Concerned about a loophole that he described and, he would like to get into discussions with North Miami to close this loophole.

Attorney Hearn read the title of the ordinance and provided an overview on the original code which currently caps fines at \$15,000. This ordinance would lift the cap.

Mayor Ross opened the public hearing and there were none.

Vice Mayor Childress commented that the fines should be monitored so that the fines do not exceed the value of the property. If it does, it should be capped at that point.

A motion made by Vice Mayor Childress to approve at 1st reading with added language from state statute 162, and a clause regarding irreparable violations with a \$5,000 fine for these violations. It was seconded by Commissioner Anderson.

After discussion, the motion was amended by Vice Mayor Childress to keep the motion the same, but instead of having no fine limit, add a cap of \$40,000 per violation. Commissioner Anderson seconded the amendment.

Additionally, the Commission requested that Code Enforcement provide quarterly reports in order to keep updated on the status of all properties with fines. This is not a part of the code, but rather an administrative policy.

The motion was called to a vote:

All in favor: Mayor Ross, Vice Mayor Childress, Commissioner Anderson, Commissioner Bernard and Commissioner Cooper.

Motion carries 5/0.

10 **Resolutions**
None

11 **Old Business**

ARRA Grant status was provided by the Village Manager as well as the background on how it was started and where it was currently at, which is that the County has advised that we cannot change the original scope of the grant that was rejected by the previous Commission.

Commissioner Cooper stated that based on his understanding of the grant and on his own personal discussions with the County, that we are able to make a change to the grant as long as the original scope is kept the same which is connecting, in a linear fashion, the two current transit points. We should make every effort to make this work.

Commissioner Cooper makes a motion to bring this item back up for discussion and to go forward to find a way to use this grant and connect the two points and keep it transit oriented. Commissioner Bernard seconded the motion.

After discussion, the Mayor asked that the motion be withdrawn and to move it for discussion at the June meeting. Commissioner Cooper agreed. Additionally Commissioner Bernard would create a drawing on a new idea to give to the County for their consideration. The Mayor does not agree and stressed that it should be handled through the Manager only.

After further discussion on what changes can or cannot be made, Vice Mayor Childress stated that we do not have enough information and there were mixed messages in order for the Commission to make a decision or to go forward. Requested that this item be moved to the next meeting in June and for that meeting, invite the County representative to attend the meeting so that the questions can be answered.

The Mayor called for a five minute recess.

12 New Business

Upon return the Mayor moved item 12.f as first discussion under New Business, discussion of the Code Review Board's recommendations in the area of fence materials, hedges and walls.

Gage Hartung, Chair of the Code Review board provided a summary of the board's progress. Specifically spoke on changes to the code regarding fence materials, hedges and walls, corner lots and metal roofs. There were many more items discussed up to Chapter 15, and would work with Vice Mayor Childress (former chair of the Code Review board) to get all updates, present it for review to the current Code Review board that has new members, then would bring it to the Commission.

Mayor Ross recommends that we go forward with crafting an ordinance to encompass all the changes the board has discussed on specifically fences, hedges and walls, and corner lots, since these are the items that usually come up for

Commissioner Bernard instead would like a full review of the current text along with the new proposed changes prior to taking it to first reading of an ordinance. Commissioner Cooper agreed and would want to get an entire red-lined document to be put on the website for review by the citizenry. Concerned that if we went straight to the ordinance it may alarm residents with changes that may not happen.

After discussion, the Mayor requested that the Attorney get detailed information from Mr. Hartung and Vice Mayor Childress and create a legislative draft for review and discussion at the next meeting in June.

The next item for discussion was the renewal of insurance benefits for employees effective June 1, 2010. Prior to the presentation, Mayor Ross advised she may have a remote connection on this issue and may be conflicted with the selection this commission may make. In order to avoid the appearance of any impropriety, the Mayor will recuse herself from any vote. *(Form 8B is attached at the end of these minutes.)* The meeting was turned over to Vice Mayor Childress. The Village Clerk, Maria Camara, provided a power point presentation outlining the current benefits for medical, dental, and life insurance and the costs. Based on the renewal quotes provided for the same plans, there was an increase of 26% from the current carriers,

village clerk

From: Bryan Cooper [bryancooper7@yahoo.com]
Sent: Monday, May 03, 2010 9:05 PM
To: villagemanager@biscayneparkfl.gov
Cc: agarcia@biscayneparkfl.gov; vobparchives@biscayneparkfl.gov; villageclerk@biscayneparkfl.gov
Subject: Information on ARRA grant?

Ms. Garcia:

Several weeks ago you said you were still waiting on the response re: the ARRA grant.

Can you email me Tuesday morning a synopsis of where you feel we stand, and send this email with your response to the entire Commission, so all are aware of what Lynn Fain and others at MDT have advised in advance of the start of our Commission meeting? In the future, it would be great to have more timely communication and administrative follow up from you regarding such grant projects -- especially those that you know are important to the high number of residents who favor safer and more pedestrian friendly and multi-modal roadways, not to mention the more livable community that results.

BC

9/8/2010

village clerk

From: Bryan Cooper [bryancooper7@yahoo.com]
Sent: Friday, May 07, 2010 12:17 PM
To: villagemanager@biscayneparkfl.gov
Cc: villageclerk@biscayneparkfl.gov; vobparchives@biscayneparkfl.gov; attyhearn@aol.com; Lynne S. (MDT)"; MorettiWhse@aol.com; Anne-Marie F. Jonckheer; kendall pryles
Subject: ARRA grant

Ms. Garcia:

Thank you for contacting Ms. Fain at MDT, with your email below. Per Commission consensus and directive this past Tuesday, we asked for MDT to visit to discuss and confirm several things for us.

In keeping with this, can you have Ms. Fain and MDT and the FTA answer the following:

1. Can minor changes be made, such the actual route between the two transit points, and still stay within scope (the scope of creating a safer linear connectivity between transit stops as Secretary of Transportation Ray LaHood supports in his public talks for safer more livable communities, and which was the intent of the grant I wrote)?
2. Per our past idea, and as you recognized from past meetings and my meeting with you personally, we have considered moving the Village bus stop nearest 6th avenue several hundred feet and be that much closer to the MDT stop on 6th avenue, and still remaining within scope. Is this ok?
3. That we could change other details of the grant and stay within scope, which is all about a safer linear route for multi-modal access.
 - * For example, as Jeff Cohen from Miami-Dade suggested, build and/or stripe road shoulders and use traffic calming to create the planned safer linear route for our kids, seniors and those who like to walk, bike or rollerskate for exercise and moving about our Village, and for our residents who use the roads to walk to the transit points. (per our lack of sidewalks in our Village).

Can you ask Ms. Fain, by "reply all" to this email, to confirm that ideas such as these would be within scope?

Thank you.

L. Bryan Cooper
Commissioner, Village of Biscayne Park

From: Ana M. Garcia <villagemanager@biscayneparkfl.gov>
To: Bryan Cooper <bryancooper7@yahoo.com>
Cc: villageclerk@biscayneparkfl.gov
Sent: Thu, May 6, 2010 11:09:46 AM
Subject: FW: clarification request

Commissioner Cooper, per your request, Thank you Ana.

5/10/2010

From: Ana M. Garcia [mailto:villagemanager@biscayneparkfl.gov]
Sent: Wednesday, May 05, 2010 1:32 PM
To: 'Fain, Lynne S. (MDT)'
Cc: 'villageclerk@biscayneparkfl.gov'
Subject: clarification request

Good afternoon Lynn , I hope all is well, It was great to speak with you and Celeste last week in regards to the ARRA Grant. In your absence both Celeste and Debra Owens were in Communications with me looking at the possibility of an approved scope change. My interpretation of our conversation last week, was that our particular scope could not be changed. I discussed this with our Commission last night. They requested that I contact you and get your official recommendation either you or your designee attending our next Commission meeting June 8th, or sending me an official notification of what can or cannot be changed in the scope, Lynn thank you so much. I have copied our Village Clerk and I ask that you do the same with your response. Thanks.

Ana M. Garcia,CPRP
Village Manager
640 NE 114th Street
Biscayne Park, Fl 33161
Ph. 305.899.8000 ext. 229
Fax. 305.891.7241
agarcia@biscayneparkfl.gov

5/10/2010

village clerk

From: Maria Camara [aramacservices@gmail.com]
Sent: Thursday, May 13, 2010 12:54 AM
To: villageclerk@biscayneparkfl.gov
Subject: ARRA

Motion made by Cooper and seconded by Bernard for discussion.

The Manager explained that based on her discussion the prior week with the Ms. Fain from the County, she advised that a change to the original plan submitted by Commissioner Cooper could not be done. Commissioner Cooper did not agree and based on his understanding and his previous conversations with Ms. Fain, he thought that it could be done as long as the original intent of the scope, which was to connect the two transit points, did not change.

Vice Mayor Childress suggested that Ms. Fain be invited to attend the next Commission meeting to discuss and answer questions.

After discussion, Mayor Ross agreed and suggested that at the next meeting the Commission be given copies of the original plan submitted, have Ms. Fain come to the meeting and confirm what changes can and cannot be made. She asked Commissioner Cooper to withdraw his motion which he agreed to, but stated that while he agreed to have Ms. Fain come to the next meeting, he felt that getting copies of the original plan is not important. As long as we maintained the essential point of the scope which is to connect the two transit points, how we do it is up to us. The Manager was asked to contact Ms. Fain to confirm that could be done. Commissioner Bernard agreed and he offered to create a drawing of a possible option so that once Ms. Fain confirmed that a change could be made, the drawing would be ready for Commission review at the June 8 meeting.

Commissioner Cooper stated that we needed to get accurate information and agrees Manager should go forward in contacting Ms. Fain. However, he will exercise his right to contact the County himself if he feels information is wrong based on his knowledge of grant writing. Mayor urged to only have the Manager contact the County, but Commissioner Cooper disagreed. Attorney Hearn also stated that the communication should be done through and by the Manager only. Attorney Hearn also stated that the Commission could also authorize, and all could agree to provide Ms. Fain with the drawings provided by Commissioner Bernard. <No one made a motion to do that.>

Vice Mayor Childress asked to wrap up the discussion and again stated that the best way to do this is to bring that person with all the knowledge to the meeting to allow the Commission and residents to ask questions so that everyone could have the same knowledge.

The Manager again stated that based on her phone conversation with Ms. Fain on Thursday, they said they were sorry but changes could not be made to the scope. Commissioner Bernard ask to clarify if the changes she meant were to change the scope to the multiple transit points, and the Manager confirmed it.

Commissioner Cooper's final statement to end the discussion was, "let's bring her here".

village clerk

From: village clerk [villageclerk@biscayneparkfl.gov]
Sent: Thursday, May 27, 2010 2:40 PM
To: ross@biscayneparkfl.gov; achildress@biscayneparkfl.gov; 'Commissioner Bob Anderson'; sbernard@biscayneparkfl.gov; bcooper@biscayneparkfl.gov
Cc: agarcia@biscayneparkfl.gov; attyheam@aol.com
Subject: FW: ARRA Grant

An additional meeting took place where we obtained further information regarding the ARRA Grant:

Tuesday, May 25, 2010: The Manager and Clerk met with:

Lynne Faine

Celestine Maple

Javier Salmon, Project Manager for the ARRA Grant, Miami Dade

County

Lynne Faine called this meeting to meet Mr. Salmon so that he could provide us with information on additional requirements of this grant as follows:

Whether we were to proceed with the original plans for the route, or a different one that still maintains the original scope submitted with the grant application, the following must be done/will take place:

1. The Village of Biscayne Park must acquire the services of an Engineer to be brought in as a consultant for the project and would serve as the Project Manager. Selection of the engineer must be done through a bid process and proof of the bid process must be provided. Mr. Salman noted that the federal guidelines are extremely strict.
2. The Engineer must provide the cost estimate of the project in order to tap into the funds from this grant.
3. Once the Engineer's estimate is provided to the County (Lynne and Mr. Salman), the County's Process Review group will review to confirm that the grant funds will cover the cost of the project. If not, then the additional funds must come from the Village. If the Village is not able to come up with the additional funds, then we must opt out of the grant..
4. To opt out, a letter must be sent by the Mayor to Miami Dade Transit, Marjan Mazza. The same must be done if a decision is made not to go forward with an alternate plan. Mr. Salmon advised that this must be done soon.

As previously advised, this item will be placed on the agenda for the June 8th meeting under 'Old Business' and both these e-mails will be provided in the agenda packet.

5/27/2010

Thank you.

Maria C. Camara, Village Clerk
Village of Biscayne Park
640 NE 114th Street
Biscayne Park, FL 33161
Tel: 305 899 8000, Ext. 201
email: villageclerk@biscayneparkfl.gov

From: village clerk [mailto:villageclerk@biscayneparkfl.gov]
Sent: Thursday, May 20, 2010 1:43 PM
To: 'ross@biscayneparkfl.gov'; 'achildress@biscayneparkfl.gov'; 'Commissioner Bob Anderson'; 'sbernard@biscayneparkfl.gov'; 'bcooper@biscayneparkfl.gov'
Cc: 'agarcia@biscayneparkfl.gov'
Subject: ARRA Grant

The following are the notes taken in regards to the discussions with Miami Dade County Transit and the Federal Transit Administration (FTA) which is the grants administrator for the ARRA Grant:

Friday, May 14, 2010: The Manager and Clerk met with Lynne Faine, Miami Dade Transit - Financial Services at her office.

At this meeting, Lynne recommended that we coordinate a conference call with a representative from the FTA.

Thursday, May 20, 2010: The Manager and Clerk had a teleconference with:
Lynne Faine
Celestine Maple, Miami Dade Transit
Chip Butts, General Engineer-FTA (Region IV) - Located in Atlanta, GA

At this teleconference, the questions posed to the County and FTA were as follows:

Q. Can changes be made to the original scope and plan that was originally submitted with the grant application that includes changing the actual route, or changing the method or materials used.

A. Yes - as long as we maintain the original scope which is a dedicated roadway for pedestrians and bicyclists and connecting the two transit points.

During this discussion, the idea of striping an existing 12' wide roadway to create a 3' shoulder for pedestrians was used as the example of a change being considered. Though Mr. Butts did state that this type of change would be acceptable for the grant, he stated these opinions of this idea:

- Sharing a 12' road with vehicles does not seem to be a safe method for pedestrians
- A 15' to 16' road would be better suited

5/27/2010

- Recommends that the State's Department of Transportation standards be reviewed to see what their minimums are
- Recommends some sort of raised dome with reflectors be utilized instead of just striping to create the physical separation

Q. Can changes be made to the original scope to focus on the transit points only. The example discussed would be the addition of new transit points along with benches, shelters, garbage cans, and lighting.

A. No - this type of change is not acceptable.

Additionally, Lynne advised if we want to go forward with submitting an acceptable change as described above or any other, she recommends the following:

- The amount of this grant is just under \$32,000 - Is this amount adequate for the change that is being considered?
- If not, does the Village have additional funding available to cover what the grant does not?
- The Village needs to assign a Project Manager and it should not be the Village Manager. As is the case with the other 27 municipalities utilizing this grant, an Engineer should be assigned as the Project Manager (either the engineer employed by the city, or one that is hired as a consultant)
- The Project Manager will review the new plan with Miami Dade Transit to make sure all of the FTA regulations and procurement policies are coordinated and adhered to.

The last question was whether Lynne or another representative of Miami Dade County would be available to attend our next Commission meeting on June 8th. They advised that they would not be able to attend and were confident that the answers provided in this teleconference were sufficient.

The information provided here satisfies the request made by the Commission at the May 4th meeting. If anyone from the Commission would like to add this to the agenda for the next meeting on June 8th, please advise and provide your backup documentation and recommendations. The deadline is Friday, May 28th.

Thank you.

Maria C. Camara, Village Clerk
Village of Biscayne Park
640 NE 114th Street
Biscayne Park, FL 33161
Tel: 305 899 8000, Ext. 201
email: villageclerk@biscayneparkfl.gov

village clerk

From: Bryan Cooper [bryancooper7@yahoo.com]
Sent: Thursday, May 27, 2010 8:58 PM
To: villageclerk@biscayneparkfl.gov
Cc: agarcia@biscayneparkfl.gov; attyhearn@aol.com; Lynne S. (MDT)"; vobparchives@biscayneparkfl.gov
Subject: Re: ARRA Grant

Ms. Garcia and Attorney Hearn, Clerk Camara, and Ms. Fain.

1. Can you please provide the phone number and contact information for Javier Salmon? I have some fact-finding to do, and would appreciate your cooperation. I also find it unfortunate that I was not asked to attend the meetings.

2. I would like the phone number of Chip Butts, General Engineer-FTA (Region IV) - Located in Atlanta, GA from Ms. Fain.

3. Can someone reference the administrative code that mandates that an engineer has to be brought in as a "project manager"?

I surely hope that we are not interpreting wrongful mandates that will be used to set up yet another roadblock to this grant that has been approved.

Thanks in advance for your assistance,

Bryan Cooper

From: village clerk <villageclerk@biscayneparkfl.gov>
To: rross@biscayneparkfl.gov; achildress@biscayneparkfl.gov; Commissioner Bob Anderson <banderson@biscayneparkfl.gov>; sbernard@biscayneparkfl.gov; bcooper@biscayneparkfl.gov
Cc: agarcia@biscayneparkfl.gov; attyhearn@aol.com
Sent: Thu, May 27, 2010 2:39:57 PM
Subject: FW: ARRA Grant

An additional meeting took place where we obtained further information regarding the ARRA Grant:

Tuesday, May 25, 2010: The Manager and Clerk met with:

Lynne Faine

Celestine Maple

Javier Salmon, Project Manager for the ARRA Grant, Miami Dade

County

**VICE-MAYOR PUBLIC
RECORDS REQUEST
RELATED PACKET (FROM
CLERK)**

From: Bryan Cooper [mailto:bryancooper7@yahoo.com]
Sent: Friday, June 18, 2010 7:11 PM
To: villageclerk@biscayneparkfl.gov
Subject: Sunshine & Commissioner research request

1

Maria:

Can you please let me know times/days when you will be available, preferably in the late afternoon, to provide me unlimited access to all village files and records for a period of about 1 hour, for my personal research in the log cabin. I ask that you be present, as well as all staff who are related to any and all finance related procedures.

Once you know the windows of possible service (days/times possible), please send me an email with a list, including the staff who will be present and that will allow me access to the files and/or information that I will request upon my arrival.

If there are any files that are in storage, please let me know, based on the Village Documentation Retention Policy, what documents will be in storage, and hence difficult to access, based on:

- A. Area/Subject (Finance, Personnel, etc.)
- B. Associated moving time frame (e.g. 6 months, 1 year, 3 years, etc.) when they are moved from the log cabin (and hence no longer readily accessible for my research) to any storage facilities that the Village uses....and that would hinder my research.

I look forward to hearing from you.

Best regards,

Bryan

Maria C. Camara, Village Clerk
Village of Biscayne Park
640 NE 114th Street
Biscayne Park, FL 33161
Tel: 305 899 8000, Ext. 201
email: villageclerk@biscayneparkfl.gov

8/25/2010

From: Maria Camara [mailto:aramacservices@gmail.com]
Sent: Wednesday, June 23, 2010 3:39 PM
To: bcooper@biscayneparkfl.gov; villageclerk@biscayneparkfl.gov
Subject: Fwd: FW: Sunshine & Commissioner research request

(4)

Hi Commissioner Cooper. Yes, there are records stored off site and there are records stored at Village Hall. There are two locations offsite, one is a regular storage facility which we are in the process of cleaning out and closing, and the second is a documents storage location.

The cleaning out/closing of the smaller storage facility is part of a bigger project of doing a complete inventory of all records and to create a proper inventory and updating it with the time frame of required retention based on Florida statutes. At this point I am not able to provide you with what is at Village Hall and what is offsite, but when we schedule the date for your visit, I will have that information.

As I mentioned below, I will provide you with the dates/times of when both Michael and I will be available to meet with you, early next week.

Thank you.
Maria Camara
Village Clerk
From: Bryan Cooper [mailto:bryancooper7@yahoo.com]
Sent: Wednesday, June 23, 2010 7:33 AM
To: Maria Camara
Subject: unanswered question

Maria:

(3)

Can you also respond to my question (in my other mail) about items that might be in storage, and if you have a document retention policy that defines what is in storage, and what is not.

Also, where is storage? In the cabin? Off-site?

BC

----- Forwarded message -----
From: Maria Camara <aramacservices@gmail.com>
Date: Mon, Jun 21, 2010 at 2:44 PM
Subject: Re: FW: Sunshine & Commissioner research request
To: bcooper@biscayneparkfl.gov, villageclerk@biscayneparkfl.gov

(2)

Hello Commissioner Cooper. I am out of the office this week and will return on Friday. I will review your request with our Finance Director, Michael, and provide to you next week the available days/times for the both of us. Thank you.

Maria Camara
Village Clerk

On Sat, Jun 19, 2010 at 8:23 PM, village clerk <villageclerk@biscayneparkfl.gov> wrote:

8/25/2010

From: village clerk <villageclerk@biscayneparkfl.gov>
To: villageclerk@biscayneparkfl.gov
Cc: agarcia@biscayneparkfl.gov
Sent: Tue, July 6, 2010 11:37:00 AM
Subject: FW: Sunshine & Commissioner research request

6

Commissioner Cooper and Full Commission:

In response to your question:

1. Iron Mountain is an outside document storage facility in Sunrise . Only the Manager, the Finance Director, the Chief and the Clerk have authorization to request information from Iron Mountain on our account, and to retrieve records from storage. To retrieve records you must request the entire box to be pulled which is done by Iron Mountain and delivered to us. There is a fee for retrieval, delivery and to put back into storage. Attached is a listing of the records in storage at that location.
2. North Miami storage facility is located on NE 16th Avenue . Only the Manager, the Finance Director, the Chief and the Clerk have access to the storage facility. There is no cost for retrieval, only the labor time to go to the facility and back. The inventory for this location has not yet been completed.
3. Village Hall. There are records throughout the offices. There are several that are in a loft that have yet to be listed and inventoried which requires assistance from Public Works staff. Attached is a partial listing of the records in Village Hall.

With having to prepare for next week's Commission meeting and in order to meet our budget deadlines, I will have to change my availability to Thursday or Friday of next week, July 15th or 16th between 4:30 and 5:30PM.

Thank you.
Maria Camara
Village Clerk

From: Bryan Cooper [mailto:bryancooper7@yahoo.com]
Sent: Thursday, July 01, 2010 12:19 AM
To: VOBP Archives; bcooper@biscayneparkfl.gov
Cc: agarcia@biscayneparkfl.gov; attyhearn@aol.com
Subject: Re: FW: Sunshine & Commissioner research request

5

Maria:

Can you please provide the locations of the outside storage locations, and who has access to them and at what hours? I would like the inventories in advance of making my appointment.
Thank you.

Bryan

From: VOBP Archives <vobparchives@biscayneparkfl.gov>
To: bcooper@biscayneparkfl.gov
Cc: agarcia@biscayneparkfl.gov; attyhearn@aol.com
Sent: Wed, June 30, 2010 6:58:03 PM
Subject: FW: FW: Sunshine & Commissioner research request

9/20/2010

village clerk

From: village clerk [villageclerk@biscayneparkfl.gov]
Sent: Thursday, July 08, 2010 6:16 PM
To: bcooper@biscayneparkfl.gov
Cc: agarcia@biscayneparkfl.gov; attyhearn@aol.com
Subject: RE: Sunshine & Commissioner research request

Good afternoon Vice Mayor and Full Commission;

Please see below my response:

Maria C. Camara, Village Clerk
Village of Biscayne Park
640 NE 114th Street
Biscayne Park, FL 33161
Tel: 305 899 8000, Ext. 201
email: villageclerk@biscayneparkfl.gov

7 + 8

From: Bryan Cooper [mailto:bryancooper7@yahoo.com]
Sent: Thursday, July 08, 2010 7:38 AM
To: villageclerk@biscayneparkfl.gov
Cc: agarcia@biscayneparkfl.gov; attyhearn@aol.com; vobparchives@biscayneparkfl.gov
Subject: Re: Sunshine & Commissioner research request

Ms. Camara:

I had arranged to have this Friday off, and am uncertain as to the next week. So, I'll just say it is too bad in terms of appearance.

It's pretty clear that the Mayor, from what I've been told, takes a day off every week and gets lots of service at the log cabin in her capacity, but it seems that I am having problems, again, getting timely access to information under the laws of the State of Florida. I guess we will now reschedule and delay.

Perhaps then you can start by sending me a list of material, (receipts from iron mountain, etc.), if any, for material that has been transferred to the storage sites in question in the past 6 months, **listed by month**. This should be easily found in one file, right? I have been here since mid January and nothing has been transferred over to Iron Mountain. Please refer to the listing I provided to you and on the column titled 'Rcpt Date' you can see the date that a box was received at Iron Mountain. The same applies to the storage facility in North Miami, nothing has been added.

I'll say that my request has been standing for some time now to be able to meet with Village staff on this, and I hope that John has explained to Village staff our Charter form of government and how inequities in service between Commissioners / Mayor would not be well received, I would think, by external reviewers, not to mention residents.

Last, have you been advised by Ms. Garcia to wait and delay until after next week's meeting? No

Bryan

9/20/2010

village clerk

From: Bryan Cooper [bryancooper7@yahoo.com]
Sent: Thursday, July 08, 2010 8:44 PM
To: villageclerk@biscayneparkfl.gov; bcooper@biscayneparkfl.gov
Cc: agarcia@biscayneparkfl.gov; attyhearn@aol.com; vobparchives@biscayneparkfl.gov
Subject: Re: Sunshine & Commissioner research request

9

Thank you Ms. Camara:

Has anything been transferred to North Miami in the time frame I refer to? What is the charge for retrieval from Iron Mountain?

I would imagine John Hearn has approved your cc'ing the entire Commission on this, and if so I'd like to hear comment from him, and he can include the entire Commission on his ruling.

Also, in his broadcast ruling, I would ask John Hearn if I can bcc all of my Sunshine communications with Village staff with full Commission, if I choose, and residents and Village staff who, I believe, have a full right to Sunshine under the Laws of Florida as I understand it, as long as no other Commissioner replies and I do not engage in "conversation" with staff who might want unilateral documentation, but who might live in fear of requesting it formally.

It is my understanding this would be legal, but I want his assurance or iterated objection in writing.

Last, I would ask Mr. Hearn to specifically comment on timely response to Sunshine Requests, and if we need a policy by which service is rendered in a way that never appears as if delay is the intent.

I hope that the Village begins to take more seriously the laws of the State of Florida, than I have observed done in the past.

Please advise.

BC

From: village clerk <villageclerk@biscayneparkfl.gov>
To: bcooper@biscayneparkfl.gov
Cc: agarcia@biscayneparkfl.gov; attyhearn@aol.com
Sent: Thu, July 8, 2010 6:16:22 PM
Subject: RE: Sunshine & Commissioner research request

Good afternoon Vice Mayor and Full Commission;

Please see below my response:

Maria C. Camara, Village Clerk
Village of Biscayne Park
640 NE 114th Street
Biscayne Park, FL 33161
Tel: 305 899 8000, Ext. 201

8/25/2010

village clerk

From: village clerk [villageclerk@biscayneparkfl.gov]
Sent: Friday, July 09, 2010 2:28 PM
To: bcooper@biscayneparkfl.gov
Cc: agarcia@biscayneparkfl.gov; attyhearn@aol.com
Subject: RE: Sunshine & Commissioner research request

Vice Mayor and Full Commission: Please see below

Maria C. Camara, Village Clerk
Village of Biscayne Park
640 NE 114th Street
Biscayne Park, FL 33161
Tel: 305 899 8000, Ext. 201
email: villageclerk@biscayneparkfl.gov

From: Bryan Cooper [mailto:bryancooper7@yahoo.com]
Sent: Thursday, July 08, 2010 8:44 PM
To: villageclerk@biscayneparkfl.gov; bcooper@biscayneparkfl.gov
Cc: agarcia@biscayneparkfl.gov; attyhearn@aol.com; vobparchives@biscayneparkfl.gov
Subject: Re: Sunshine & Commissioner research request

Thank you Ms. Camara:

Has anything been transferred to North Miami in the time frame I refer to? As noted below, no, nothing has been transferred to the North Miami location. What is the charge for retrieval from Iron Mountain? The only costs that I have are what was invoiced late last year when the Chief retrieved some boxes. I have sent a request to the rep at Iron Mountain to get updated retrieval costs and I will provide as soon as I get that information.

I would imagine John Hearn has approved your cc'ing the entire Commission on this, and if so I'd like to hear comment from him, and he can include the entire Commission on his ruling.

Also, in his broadcast ruling, I would ask John Hearn if I can bcc all of my Sunshine communications with Village staff with full Commission, if I choose, and residents and Village staff who, I believe, have a full right to Sunshine under the Laws of Florida as I understand it, as long as no other Commissioner replies and I do not engage in "conversation" with staff who might want unilateral documentation, but who might live in fear of requesting it formally.

It is my understanding this would be legal, but I want his assurance or iterated objection in writing.

Last, I would ask Mr. Hearn to specifically comment on timely response to Sunshine Requests, and if we need a policy by which service is rendered in a way that never appears as if delay is the intent.

I hope that the Village begins to take more seriously the laws of the State of Florida, than I have observed done in the past.

9/20/2010

village clerk

From: village clerk [villageclerk@biscayneparkfl.gov]
Sent: Tuesday, July 13, 2010 10:11 AM
To: bcooper@biscayneparkfl.gov
Cc: agarcia@biscayneparkfl.gov
Subject: RE: minutes

Vice Mayor and Full Commission:

Please see responses below:

Maria C. Camara, Village Clerk
Village of Biscayne Park
640 NE 114th Street
Biscayne Park, FL 33161
Tel: 305 899 8000, Ext. 201
email: villageclerk@biscayneparkfl.gov

(11)

and

From: Bryan Cooper [mailto:bryancooper7@yahoo.com]
Sent: Tuesday, July 13, 2010 7:25 AM
To: villageclerk@biscayneparkfl.gov; attyhearn@aol.com
Cc: vobparchives@biscayneparkfl.gov
Subject: minutes

(12)

Ms. Camara:

Two questions:

Have you or Village staff (manager, etc.) lost any data since you started work here (computer systems, email, etc.?) At this point I can only answer for myself - as far as I know, I have not lost any data. However, I say that very cautiously as the back up process we currently have in place is very weak. At tonight's meeting, a presentation will be provided to talk more about our current IT infrastructure.

And, before you submit your minutes into the docket, are they reviewed by 1) the manager; 2) the Mayor? Neither

Or, do you alone determine what is put in, and what is left out? I am solely responsible for the minutes.

Thank you.

BC

9/20/2010

village clerk

From: Bryan Cooper [bryancooper7@yahoo.com]

Sent: Thursday, July 15, 2010 11:16 PM

To: villageclerk@biscayneparkfl.gov

Subject: Re: Your Visit

Ms. Camara:

It looks like I will only be able to visit after 5pm. And, I'd prefer up to 2 hours, if 1 is not enough for some reason. Steve Taylor told us of your later hours, so I hope this is possible and that others also work an administrative schedule to support those Commissioners who work.

Let's plan a day later next week. (As I mentioned earlier, this Friday did not end up being available for me as was last Friday that you canceled).

BC

From: village clerk <villageclerk@biscayneparkfl.gov>

To: bcooper@biscayneparkfl.gov

Cc: agarcia@biscayneparkfl.gov

Sent: Wed, July 14, 2010 6:01:37 PM

Subject: Your Visit

Good afternoon Commissioner Cooper.

Want to confirm which day you are planning to visit, Thursday or Friday, from 4:30-5:30PM.

Thank you.

Maria C. Camara, Village Clerk

Village of Biscayne Park

640 NE 114th Street

Biscayne Park, FL 33161

Tel: 305 899 8000, Ext. 201

email: villageclerk@biscayneparkfl.gov

8/25/2010

village clerk

From: village clerk [villageclerk@biscayneparkfl.gov]

Sent: Friday, July 16, 2010 5:35 PM

To: bcooper@biscayneparkfl.gov

Cc: agarcia@biscayneparkfl.gov

Subject: FW: P & P Board member; oaks, etc.

Commissioner Cooper, please bring your nomination to replace Barbara Kiers to the August Commission meeting, which I will add as an agenda item along with your decision for the Planning & Zoning Board.

In regards to your visit next week, I will reply to you on Monday with available dates.

Thank you.

Maria C. Camara, Village Clerk

Village of Biscayne Park

640 NE 114th Street

Biscayne Park, FL 33161

Tel: 305 899 8000, Ext. 201

email: villageclerk@biscayneparkfl.gov

From: Ana M. Garcia [mailto:villagemanager@biscayneparkfl.gov]

Sent: Friday, July 16, 2010 12:07 PM

To: villageclerk@biscayneparkfl.gov

Subject: FW: P & P Board member; oaks, etc.

fyi

From: Bryan Cooper [mailto:bryancooper7@yahoo.com]

Sent: Thursday, July 15, 2010 11:09 PM

To: villagemanager@biscayneparkfl.gov

Subject: P & P Board member; oaks, etc.

Ms. Garcia:

Mr. David Tunnell (see phone below) will be replacing Barbara Kiers on the Parks & Parkways Board. I believe you have already talked with him about best practices and bees in the Village.

Please also let me know what was decided last night, and if it your intent to plant more oak trees.

Thanks for taking care of communicating with the Miami-Dade staff who picked up the outbound donation oaks.

Bryan

David Tunnell

786.343.0006

david@metroorganicbistro.com

9/20/2010

village clerk

From: village clerk [villageclerk@biscayneparkfl.gov]
Sent: Wednesday, July 21, 2010 12:13 PM
To: bcooper@biscayneparkfl.gov
Cc: agarcia@biscayneparkfl.gov
Subject: FW: P & P Board member; oaks, etc.

Vice Mayor, sorry for the delay.

Yes, this Friday afternoon would be fine, 5:00PM to 6:30PM. Please remember that our Finance Clerk, Karina Moreta will also be working with us, and her time has to be adjusted to stay later in the day.

Thank you.

Maria C. Camara, Village Clerk
Village of Biscayne Park
640 NE 114th Street
Biscayne Park, FL 33161
Tel: 305 899 8000, Ext. 201
email: villageclerk@biscayneparkfl.gov

16

From: Bryan Cooper [mailto:bryancooper7@yahoo.com]
Sent: Wednesday, July 21, 2010 9:24 AM
To: villageclerk@biscayneparkfl.gov
Subject: Re: P & P Board member; oaks, etc.

Hi:

I looked for your mail on Monday, per below. Would Friday be possible?

BC

15

From: village clerk <villageclerk@biscayneparkfl.gov>
To: bcooper@biscayneparkfl.gov
Cc: agarcia@biscayneparkfl.gov
Sent: Fri, July 16, 2010 5:34:40 PM
Subject: FW: P & P Board member; oaks, etc.

Commissioner Cooper, please bring your nomination to replace Barbara Kiers to the August Commission meeting, which I will add as an agenda item along with your decision for the Planning & Zoning Board.

In regards to your visit next week, I will reply to you on Monday with available dates.

Thank you.

Maria C. Camara, Village Clerk
Village of Biscayne Park
640 NE 114th Street
Biscayne Park, FL 33161
Tel: 305 899 8000, Ext. 201
email: villageclerk@biscayneparkfl.gov

9/20/2010

village clerk

From: Bryan Cooper [bryancooper7@yahoo.com]

Sent: Thursday, July 22, 2010 7:58 AM

To: villageclerk@biscayneparkfl.gov

Subject: Re: P & P Board member; oaks, etc.

Ok; I'll be there.

BC

From: village clerk <villageclerk@biscayneparkfl.gov>

To: bcooper@biscayneparkfl.gov

Cc: agarcia@biscayneparkfl.gov

Sent: Wed, July 21, 2010 12:12:58 PM

Subject: FW: P & P Board member; oaks, etc.

Vice Mayor, sorry for the delay.

Yes, this Friday afternoon would be fine, 5:00PM to 6:30PM. Please remember that our Finance Clerk, Karina Moreta will also be working with us, and her time has to be adjusted to stay later in the day.

Thank you.

Maria C. Camara, Village Clerk
Village of Biscayne Park
640 NE 114th Street
Biscayne Park, FL 33161
Tel: 305 899 8000, Ext. 201
email: villageclerk@biscayneparkfl.gov

From: Bryan Cooper [mailto:bryancooper7@yahoo.com]

Sent: Wednesday, July 21, 2010 9:24 AM

To: villageclerk@biscayneparkfl.gov

Subject: Re: P & P Board member; oaks, etc.

Hi:

I looked for your mail on Monday, per below. Would Friday be possible?

BC

From: village clerk <villageclerk@biscayneparkfl.gov>

To: bcooper@biscayneparkfl.gov

Cc: agarcia@biscayneparkfl.gov

Sent: Fri, July 16, 2010 5:34:40 PM

Subject: FW: P & P Board member; oaks, etc.

Commissioner Cooper, please bring your nomination to replace Barbara Kiers to the August Commission meeting,

8/25/2010

village clerk

From: village clerk [villageclerk@biscayneparkfl.gov]

Sent: Thursday, July 22, 2010 5:27 PM

To: bcooper@biscayneparkfl.gov

Cc: agarcia@biscayneparkfl.gov

Subject: FW: TROPICAL STORM

Vice Mayor, in light of the anticipated weather for tomorrow afternoon, Karina's schedule will not be changed to stay late tomorrow. Additionally we will be finalizing preparations for securing the building and getting everyone home by 5:PM. Therefore we will have to cancel your visit tomorrow.

I will be out of the office on Monday, 7/26, and Tuesday, 7/27, is the budget workshop. Please advise your availability for W-F, 7/28-7/30.

Thank you!

Maria C. Camara, Village Clerk
Village of Biscayne Park
640 NE 114th Street
Biscayne Park, FL 33161
Tel: 305 899 8000, Ext. 201
email: villageclerk@biscayneparkfl.gov

From: Ana M. Garcia [mailto:villagemanager@biscayneparkfl.gov]

Sent: Thursday, July 22, 2010 2:55 PM

To: rox@roxross.com; 'Bryan Cooper'; 'Steve Bernard'; banderson@biscayneparkfl.gov; 'Al Childress'

Cc: villageclerk@biscayneparkfl.gov; 'Chief M. Glansberg, CFE'; bpratt@biscayneparkfl.gov; ithornell@biscayneparkfl.gov; sramos@biscayneparkfl.gov

Subject: TROPICAL STORM

Good Afternoon all,

At approximately 1130 am the storm was 420 miles east of Miami moving 15 miles per hour, from the latest information we have received the worst of this weather will be tomorrow afternoon. We will be ready with on call staff if there are any changes.

All departments have been in assessment and preparation mode for the past several days. PW has begun a staggered shift scheduling that was already in discussion. After driving through the Village this afternoon I noticed the majority of all debris piles have been picked up, but we will do another drive through tomorrow morning.

A walkthrough of the park will be conducted to ensure anything that can be stored inside the recreation center will be safely secured.

There is a plan in place for all Computers and Village of Biscayne Park facilities.

Emergency Management has indicated that rain would be a big concern and the range of rain fall could be anywhere between 2-6 inches, a good opportunity to make an assessment of potential opportunities for storm drain projects for the Village. But we will also be prepared for any wind related situations, where streets need to be cleared.

We will keep you updated. Thank you.

Ana M. Garcia, CPRP
Village Manager

9/20/2010

village clerk

From: village clerk [villageclerk@biscayneparkfl.gov]
Sent: Friday, July 23, 2010 2:33 PM
To: bcooper@biscayneparkfl.gov
Cc: agarcia@biscayneparkfl.gov
Subject: FW: TROPICAL STORM
Importance: High

Vice Mayor, it looks like the worst of the weather has passed. Therefore if you are still available this afternoon, I can be here to assist you.

Thank you.

305 332 8166

Maria C. Camara, Village Clerk
Village of Biscayne Park
640 NE 114th Street
Biscayne Park, FL 33161
Tel: 305 899 8000, Ext. 201
email: villageclerk@biscayneparkfl.gov

From: village clerk [mailto:villageclerk@biscayneparkfl.gov]
Sent: Thursday, July 22, 2010 5:27 PM
To: 'bcooper@biscayneparkfl.gov'
Cc: 'agarcia@biscayneparkfl.gov'
Subject: FW: TROPICAL STORM

Vice Mayor, in light of the anticipated weather for tomorrow afternoon, Karina's schedule will not be changed to stay late tomorrow. Additionally we will be finalizing preparations for securing the building and getting everyone home by 5:PM. Therefore we will have to cancel your visit tomorrow.

I will be out of the office on Monday, 7/26, and Tuesday, 7/27, is the budget workshop. Please advise your availability for W-F, 7/28-7/30.

Thank you!

Maria C. Camara, Village Clerk
Village of Biscayne Park
640 NE 114th Street
Biscayne Park, FL 33161
Tel: 305 899 8000, Ext. 201
email: villageclerk@biscayneparkfl.gov

From: Ana M. Garcia [mailto:villagemanager@biscayneparkfl.gov]
Sent: Thursday, July 22, 2010 2:55 PM
To: rox@roxross.com; 'Bryan Cooper'; 'Steve Bernard'; banderson@biscayneparkfl.gov; 'Al Childress'
Cc: villageclerk@biscayneparkfl.gov; 'Chief M. Glansberg, CFE'; bpratt@biscayneparkfl.gov; ithornell@biscayneparkfl.gov; sramos@biscayneparkfl.gov
Subject: TROPICAL STORM

9/20/2010

Additional notes from Maria Camara:

On Friday afternoon, 7/23/10, Vice Mayor Cooper came in at around 5:30PM along with resident Barbara Kiers.

What was discussed:

1. Vice Mayor asked for the red-lined copy of the document being worked on by the Code Review Board. I advised him that I did not have that. He stated that he found this problematic and was considering taking this situation before the State Attorney's office.
2. Vice Mayor asked for our Personnel Policy & Procedures manual which I provided a copy.
3. Vice Mayor asked for our retentions schedule policy and procedures. I advised we follow Florida statutes and would provide him with the link to this information by e-mail.
4. Vice Mayor asked for copies of our job descriptions. I advised him that I was not aware that we had any based on the documents in my office and files on my computer.
5. Vice Mayor asked to run reports through our finance system (HTE), but I advised him that the Finance Clerk was not able to stay late because we did not know how the storm (TS Bonnie) would impact us and she did not adjust her schedule to stay late. He confirmed whether the Finance Clerk was the only one that could run reports and I replied that she and the Finance Director were the only ones with access.

He was disappointed that the Finance Clerk was not there on this particular day as previously confirmed, but I explained again it was because of the unknown certainty of the weather.

I asked the Vice Mayor to provide me a list of what he needed so that the Finance Clerk could work on it, but he insisted that he had to be here to personally make the request and to sit next to her as she accessed the system to retrieve the information.

We left it that we would make arrangements for Vice Mayor to come back on another day when the Finance Clerk was available to stay late.

village clerk

From: attyheam@aol.com
Sent: Monday, July 26, 2010 8:48 AM
To: bryancooper7@yahoo.com
Subject: Re: legal issues....

Hey Bryan, Yes. A lot of questions. Many should be answered by the Ethics Commission and AGO. Otherwise we can discuss on the phone when convenient. Thanks.

-----Original Message-----

From: Bryan Cooper <bryancooper7@yahoo.com>
To: attyheam@aol.com
Sent: Sun, Jul 25, 2010 8:21 am
Subject: legal issues....

John:

It is my understanding that, if I submit something to the ethics board (or at the very moment that I do it), that I can make a public announcement that I am asking the board to review occurrences in our Village, and disseminate facts to the community and/or the press; so that our residents will be aware of the review process, correct?

Also, can I send directly to the ethics board concerns and evidence about probable violation of our Charter --- by a Commission member?

I believe this might be necessary given that, from what some have observed of the voting pattern of three on the Commission, that there might be no upholding of our Charter by the majority on the Commission if items were brought to them for review. Especially given that what might be submitted could concern a Commission member.

Would it bring a conflict of interest, and necessitate that any elected official in question of having broken the law would not be allowed to vote if the Commission reviewed the claim of, for example, Charter violation first before it went on to the ethics board?

And, is there a mandated procedure that necessitates that I work through processes internally with the Commission and its public meetings, before bringing to the ethics board?

If needed, would I do the same for Attorney General (Sunshine, regarding our lack of capacity as a Village to adhere?). Or does this too go to the Ethics board first, and then to the AG?

And, in terms of a possible Sunshine violation of an individual, can or should I submit it directly to the ethics board AND Attorney General's Office at the same time?

A lot of questions....

Once I have all the evidence together, should I meet with you to get your final review?

Bryan Cooper

9/20/2010

village clerk

From: bryan cooper [bcooper839@yahoo.com]
Sent: Monday, July 26, 2010 7:59 AM
To: VillageClerk@BiscayneParkFl.gov
Cc: attyhearn@aol.com; vobparchives@biscayneparkfl.gov
Subject: request

20

Maria:

Can you please bring to the Tuesday meeting a copy of:

- 1) Minutes for Code Review Committee in binder
- 2) All red-lined copy that is completed, to date, as you said is being performed by Gage H & Commissioner Childress together.

Also, if there is electronic copy of the working red-lined version, please email to me early this week; thanks.

I know you will understand my concern when the Mayor made statements that she wanted to keep this from the public at this point and "not scare them"...and by now you probably understand my opposing view of keeping the residents fully informed while supporting full transparency.

Since I've been wanting to get this for some time now, starting with our conversations and requests months ago, I hope that there will not be any more delay on both of these related documents.

Bryan

8/25/2010

village clerk

From: village clerk [villageclerk@biscayneparkfl.gov]
Sent: Wednesday, July 28, 2010 8:02 PM
To: bcooper@biscayneparkfl.gov
Cc: agarcia@biscayneparkfl.gov; attyhearn@aol.com
Subject: FW: request

21

Vice Mayor, since I'm going to be out of the office tomorrow (Thursday, 7/29), I wanted to let you know the following before Friday:

1. On Tuesday, 8/3, I will provide you copies of the minutes for the Code Review Board.
2. I do not have the red-lined version of the Code based on the changes agreed on by the Code Review Board. You will need to make that request at the Commission Meeting.
3. The copy of the Personnel Policy & Procedures that were adopted in April 2009 were provided to you last Friday.
4. The link to the Florida statutes on records retention is:
http://dlis.dos.state.fl.us/recordsmgmt/gen_records_schedules.cfm; or you can search: State of Florida General Records Schedule GS1-SL
5. As I mentioned last Friday, there are currently no job descriptions.
6. In regards to your request to sit with the Finance Clerk on Friday afternoon and have her run reports from the HTE Accounting system, you will need to make that request before the Commission. The Manager and I consulted with Attorney Hearn and this request does not fall under the normal guidelines of a public records request and will need to be discussed by the Commission.
7. On your request to get a listing of the e-mail addresses for staff that have an e-mail, the Manager requests that I review that with the Attorney. Based on his reply I will advise.

Thank you.

Maria C. Camara, Village Clerk
Village of Biscayne Park
640 NE 114th Street
Biscayne Park, FL 33161
Tel: 305 899 8000, Ext. 201
email: villageclerk@biscayneparkfl.gov

From: bryan cooper [mailto:bcooper839@yahoo.com]
Sent: Monday, July 26, 2010 7:59 AM
To: VillageClerk@BiscayneParkFl.gov
Cc: attyhearn@aol.com; vobparchives@biscayneparkfl.gov
Subject: request

Maria:

Can you please bring to the Tuesday meeting a copy of:

- 1) Minutes for Code Review Committee in binder
- 2) All red-lined copy that is completed, to date, as you said is being performed by Gage H & Commissioner Childress together.

Also, if there is electronic copy of the working red-lined version, please email to me early this week; thanks.

I know you will understand my concern when the Mayor made statements that she wanted to keep this from the public at this point and "not scare them"...and by now you probably understand my opposing view of keeping the residents fully informed while supporting full transparency.

9/20/2010

From: Bryan Cooper <bryancooper7@yahoo.com>
To: Rmeyers@mlamidade.gov; villageclerk@biscayneparkfl.gov; bcooper@biscayneparkfl.gov
Cc: agarcia@biscayneparkfl.gov; attyhearn@aol.com
Sent: Wed, July 28, 2010 10:14:34 PM
Subject: Re: request

(22)

Robert Meyers, fyi:

John Hearn advised me by phone that I had the right to schedule a meeting with Village staff and make a request for information at the point of meeting, and that I did not need to give details of my request in advance.

Below, in #6, our Village staff now state that John Hearn has (after my conversation with him) advised them in direct contradiction to his advice to me. And that Commission approval is necessary.

In our phone conversation, he mentioned nothing to me about needing Commission approval for my longstanding request to access of government records under Sunshine Law in the HTE system; and in fact he stated clearly to me that it was my right to not reveal to staff my request, until the point it might be accessed when I was present, given my concerns expressed to him that the information, given the sensitivity of it, might never see the light of day otherwise.

Please note there have been a number of canceled meetings and delays to my request for a meeting with staff to get a report from the HTE system; and which appear questionable as to the reasoning. Moreover, there have been statements from the Clerk that she would give me access, but preferred that they know days in advance what I was looking for. So, numerous delays, and at the same time their wanting to know what I'm looking for in advance of my picking up the information.

I have been advised by several financial staff that running reports is very easy in the HTE system; why the roadblock now? Why now saying Commission approval is necessary for my requests.

Given the precarious nature of our records retention system, and the recent statements from Village staff that our email computer systems appear to have no integrity for assuring retention of data, I am concerned, as you might understand, on numerous fronts. I have also been advised by way of documents that the HTE system is planned to be discontinued, by recommendation of the Manager.

Please see below, and let me know if you believe that this is aligned with intent of Sunshine Law. Also, in respect to #2 below.

Thanks.

Bryan Cooper

From: village clerk <villageclerk@biscayneparkfl.gov>
To: bcooper@biscayneparkfl.gov
Cc: agarcia@biscayneparkfl.gov; attyhearn@aol.com
Sent: Wed, July 28, 2010 8:01:48 PM
Subject: FW: request

Vice Mayor, since I'm going to be out of the office tomorrow (Thursday, 7/29), I wanted to let you know the following before Friday:

1. On Tuesday, 8/3, I will provide you copies of the minutes for the Code Review Board.
2. I do not have the red-lined version of the Code based on the changes agreed on by the Code Review Board. You will need to make that request at the Commission Meeting.
3. The copy of the Personnel Policy & Procedures that were adopted in April 2009 were provided to you last Friday.
4. The link to the Florida statutes on records retention is:
http://dls.dos.state.fl.us/recordsmgmt/gen_records_schedules.cfm; or you can search: State of Florida General Records Schedule GS1-SL
5. As I mentioned last Friday, there are currently no job descriptions.
6. In regards to your request to sit with the Finance Clerk on Friday afternoon and have her run reports from the HTE

8/25/2010

village clerk

From: attyhearn@aol.com
Sent: Thursday, July 29, 2010 9:50 AM
To: bryancooper7@yahoo.com
Cc: RMEYERS@miamidade.gov; villagemanager@biscayneparkfl.gov; villageclerk@biscayneparkfl.gov; vobparchives@biscayneparkfl.gov

Subject: Re: request

Bryan: To be clear, you have an absolute right to receive public records. You also do not have to put the request in writing or give advance notice - although that would obviously make it easier for staff to collect and provide those records. However, you do not have the right to require that the Finance Clerk, after her work hours, sit with you and immediately retrieve records - especially when the Manager informed me that this would disrupt the running of Village business. The Clerk has been fully informed that you are entitled to all public records. At some point, you will need to ask for the records you are looking for. I am traveling on a business trip and will be returning over the weekend. I will respond to your other emails as necessary and appropriate, or they can be addressed at Commission meetings.

23

-----Original Message-----

From: Bryan Cooper <bryancooper7@yahoo.com>
To: Bryan Cooper <bryancooper7@yahoo.com>; Rmeyers@miamidade.gov; villageclerk@biscayneparkfl.gov; bcooper@biscayneparkfl.gov
Cc: agarcia@biscayneparkfl.gov; attyhearn@aol.com
Sent: Wed, Jul 28, 2010 9:18 pm
Subject: Re: request

24

Ms. Camara:

You can send the below to the entire Commission, regarding my opening of communications with the M-D Ethics Board.

More emails will be coming.

Thanks.

Bryan

From: Bryan Cooper <bryancooper7@yahoo.com>
To: Rmeyers@miamidade.gov; villageclerk@biscayneparkfl.gov; bcooper@biscayneparkfl.gov
Cc: agarcia@biscayneparkfl.gov; attyhearn@aol.com
Sent: Wed, July 28, 2010 10:14:34 PM
Subject: Re: request

Robert Meyers, fyi:

John Hearn advised me by phone that I had the right to schedule a meeting with Village staff and make a request for information at the point of meeting, and that I did not need to give details of my request in advance.

Below, in #6, our Village staff now state that John Hearn has (after my conversation with him) advised them in direct contradiction to his advice to me. And that Commission approval is necessary.

In our phone conversation, he mentioned nothing to me about needing Commission approval for my longstanding request to access of government records under Sunshine Law in the HTE system; and in fact he stated clearly to me that it was my right to not reveal to staff my request, until the point it might be accessed when I was present, given my concerns expressed to him that the information, given the sensitivity of it, might never see the light of day otherwise.

8/25/2010

imply that I (your manager) am applying different rules of service to one Commissioner and a different set of rules to another is simply not an accurate statement.

If you would provide us with some general description of the financial information you are requesting, we would know whether it would require the Finance Director (exempt), or the Finance Clerk (non-exempt) and/or the Manager to work on such request, meet with you and satisfy your request. Exempt employees on a regular basis stay beyond normal business hours to accommodate such requests. Thank you,

Respectfully,
Ana M. Garcia
Village Manager

From: Bryan Cooper [mailto:bryancooper7@yahoo.com]
Sent: Friday, July 30, 2010 8:25 AM
To: villageclerk@biscayneparkfl.gov; attyhearn@aol.com; bcooper@biscayneparkfl.gov
Cc: RMEYERS@miamidade.gov; villagemanager@biscayneparkfl.gov
Subject: Re: request

28

I need clear direction as to the hours of the day in which a Commissioner can get information on Finance.

I also hereby ask for a copy of the policy, if there is one, that shows that the Manager is not arbitrarily applying rules or restrictions of service to one Commissioner and different rules to another.

Bryan Cooper

From: village clerk <villageclerk@biscayneparkfl.gov>
To: attyhearn@aol.com; bcooper@biscayneparkfl.gov
Cc: RMEYERS@miamidade.gov; villagemanager@biscayneparkfl.gov
Sent: Thu, July 29, 2010 12:12:44 PM
Subject: RE: request

John, thank you for your e-mail response.

I know fully well that Vice Mayor has the right to receive public records. Last Friday when he was here I asked him to provide a list of what he needed so that we could start working on it.

Thanks again.

Maria C. Camara, Village Clerk
Village of Biscayne Park
640 NE 114th Street
Biscayne Park, FL 33161
Tel: 305 899 8000, Ext. 201
email: villageclerk@biscayneparkfl.gov

26

From: attyhearn@aol.com [mailto:attyhearn@aol.com]
Sent: Thursday, July 29, 2010 9:50 AM
To: bryancooper7@yahoo.com
Cc: RMEYERS@miamidade.gov; villagemanager@biscayneparkfl.gov; villageclerk@biscayneparkfl.gov; vobparchives@biscayneparkfl.gov
Subject: Re: request

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8/25/2010

village clerk

From: Bryan Cooper [bryancooper7@yahoo.com]
Sent: Friday, July 30, 2010 8:17 AM
To: Meyers, Robert (COE); attyhearn@aol.com
Cc: villagemanager@biscayneparkfl.gov; villageclerk@biscayneparkfl.gov;
vobparchives@biscayneparkfl.gov
Subject: Re: request



Ms. Garcia, and attorneys:

I would like to know if the Finance Clerk is a salaried individual, exempt or non-exempt. For weeks, I was told her hours could and would be adjusted, and now, not. I would like management to state clearly if this is a person who is employment is tied to getting the job done, or, is it clearly an hourly position that would require overtime under State Law.

I would like from Ms. Garcia, as clear statement as to how this would disrupt Village business.

In keeping with that lack of clarity: I hereby request under Sunshine Law that I receive a statement as to the Finance Clerk's exempt or non-exempt status; thanks.

I also would like a copy of her job description; if there is not job description (as Ms. Camara believes there are none); please confirm.

I also want to ask if, John, you have ever seen the Finance staff work into the hours that I need to visit? I believe you have. They were often there and required to work late, when you and I John were meeting on other business. What has changed?

Why does what the Manger state in terms of disruption contrast with what staff say who know the HTE system?

I also want it to be clear that I now do not need Commission approval, as staff below state you advised them John. I would like clarification as to the Village attorney's interpretation of this, and the role of legal advice to suggest such blocking of access.

Bryan Cooper

From: "Meyers, Robert (COE)" <RMEYERS@miamidade.gov>
To: attyhearn@aol.com; bryancooper7@yahoo.com
Cc: villagemanager@biscayneparkfl.gov; villageclerk@biscayneparkfl.gov;
vobparchives@biscayneparkfl.gov
Sent: Thu, July 29, 2010 11:07:22 AM
Subject: RE: request

Vice Mayor Cooper:

Our office lacks the legal authority to give opinions on the Florida Sunshine Law or the Florida Public Records Act, as they are state laws and our office's jurisdiction is limited to county and municipal ordinances. However, if I can provide you with an informal opinion, I concur with Mr. Hearn's interpretation of the state's public records law, which is cited in his e-mail to you (listed below).

8/25/2010

village clerk

From: Meyers, Robert (COE) [RMEYERS@miamidade.gov]
Sent: Thursday, July 29, 2010 11:07 AM
To: attyhearn@aol.com; bryancooper7@yahoo.com
Cc: villagemanager@biscayneparkfl.gov; villageclerk@biscayneparkfl.gov;
vobparchives@biscayneparkfl.gov
Subject: RE: request

25

Vice Mayor Cooper:

Our office lacks the legal authority to give opinions on the Florida Sunshine Law or the Florida Public Records Act, as they are state laws and our office's jurisdiction is limited to county and municipal ordinances. However, if I can provide you with an informal opinion, I concur with Mr. Hearn's interpretation of the state's public records law, which is cited in his e-mail to you (listed below).

Sincerely,

Robert Meyers, Executive Director
Miami-Dade Commission on Ethics and Public Trust

From: attyhearn@aol.com [mailto:attyhearn@aol.com]
Sent: Thursday, July 29, 2010 9:50 AM
To: bryancooper7@yahoo.com
Cc: Meyers, Robert (COE); villagemanager@biscayneparkfl.gov; villageclerk@biscayneparkfl.gov;
vobparchives@biscayneparkfl.gov
Subject: Re: request

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-----Original Message-----

From: Bryan Cooper <bryancooper7@yahoo.com>
To: Bryan Cooper <bryancooper7@yahoo.com>; Rmeyers@miamidade.gov;
villageclerk@biscayneparkfl.gov; bcooper@biscayneparkfl.gov
Cc: agarcla@biscayneparkfl.gov; attyhearn@aol.com
Sent: Wed, Jul 28, 2010 9:18 pm
Subject: Re: request

Ms. Camara:

You can send the below to the entire Commission, regarding my opening of communications with the M-D Ethics Board.

More emails will be coming.

Thanks.

Bryan

8/25/2010

village clerk

From: Bryan Cooper [bryancooper7@yahoo.com]
Sent: Friday, July 30, 2010 8:22 AM
To: villageclerk@biscayneparkfl.gov; attyhearn@aol.com; bcooper@biscayneparkfl.gov
Cc: RMEYERS@miamidade.gov; villagemanager@biscayneparkfl.gov
Subject: Re: request

Ms. Camara and Mr. Meyers:

Can you tell me your understanding of whether or not I need Commission approval for access to government information?

Mr. Meyers, who, that you know at the State level, should I send my emails to regarding Sunshine law, since it is not you.

Bryan Cooper

From: village clerk <villageclerk@biscayneparkfl.gov>
To: attyhearn@aol.com; bcooper@biscayneparkfl.gov
Cc: RMEYERS@miamidade.gov; villagemanager@biscayneparkfl.gov
Sent: Thu, July 29, 2010 12:12:44 PM
Subject: RE: request

John, thank you for your e-mail response.

I know fully well that Vice Mayor has the right to receive public records. Last Friday when he was here I asked him to provide a list of what he needed so that we could start working on it.

Thanks again.

Maria C. Camara, Village Clerk
Village of Biscayne Park
640 NE 114th Street
Biscayne Park, FL 33161
Tel: 305 899 8000, Ext. 201
email: villageclerk@biscayneparkfl.gov

From: attyhearn@aol.com [mailto:attyhearn@aol.com]
Sent: Thursday, July 29, 2010 9:50 AM
To: bryancooper7@yahoo.com
Cc: RMEYERS@miamidade.gov; villagemanager@biscayneparkfl.gov; villageclerk@biscayneparkfl.gov; vobparchives@biscayneparkfl.gov
Subject: Re: request

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8/25/2010

village clerk

From: Bryan Cooper [bryancooper7@yahoo.com]
Sent: Friday, July 30, 2010 8:25 AM
To: villageclerk@biscayneparkfl.gov; attyhearn@aol.com; bcooper@biscayneparkfl.gov
Cc: RMEYERS@miamidade.gov; villagemanager@biscayneparkfl.gov
Subject: Re: request

I need clear direction as to the hours of the day in which a Commissioner can get information on Finance.

I also hereby ask for a copy of the policy, if there is one, that shows that the Manager is not arbitrarily applying rules or restrictions of service to one Commissioner and different rules to another.

Bryan Cooper

From: village clerk <villageclerk@biscayneparkfl.gov>
To: attyhearn@aol.com; bcooper@biscayneparkfl.gov
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Thanks again.

Maria C. Camara, Village Clerk
Village of Biscayne Park
640 NE 114th Street
Biscayne Park, FL 33161
Tel: 305 899 8000, Ext. 201
email: villageclerk@biscayneparkfl.gov

From: attyhearn@aol.com [mailto:attyhearn@aol.com]
Sent: Thursday, July 29, 2010 9:50 AM
To: bryancooper7@yahoo.com
Cc: RMEYERS@miamidade.gov; villagemanager@biscayneparkfl.gov; villageclerk@biscayneparkfl.gov; vobparchives@biscayneparkfl.gov
Subject: Re: request

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—Original Message—

8/25/2010

village clerk

From: Bryan Cooper [bryancooper7@yahoo.com]
Sent: Friday, July 30, 2010 7:32 PM
To: villagemanager@biscayneparkfl.gov; bcooper@biscayneparkfl.gov
Cc: RMEYERS@miamidade.gov; villageclerk@biscayneparkfl.gov; attyhearn@aol.com
Subject: Re: requesFrom

32

Ms. Garcia; please forward to full Commission my response to your mail below:

Ms. Garcia, you ignore that I have already met with Ms. Camara last Friday and got most of my work done, and questions answered. And you ignored my stating I just needed a few minutes to have a report run to finish. And yet you still used your power to limit my access, when the Clerk said it was not a problem.

By Florida law and what I understand to be practice at municipalities, the Clerk controls access to public records. As a citizen of the State of Florida I have the ability to contact Ms. Camara to make my request. It does not need to go through you. Were you advised that it does? Or is this your view?

My understanding, and John Hearn must correct me if I'm wrong -- the laws of the State trump any Charter and those who attempt to use a Charter to lessen access to information when there is an absence of written procedures at the municipality, as Ms. Camara advised me we do not have (and apparently you have not addressed since your arrival here).

When you give the Mayor considerable access to Village government services (even after hours by witness in the past), one wonders.... And when the Clerk does not hesitate to serve me in a Sunshine request, and arrange after hours service as you have given to others, and then you intercede and block that request in a seeming arbitrary action, one wonders.

As stated, and as Attorney Hearn stated is my right, I do not need to reveal to you what you are insisting that I give in advance. One wonders....

Bryan Cooper

From: Ana M. Garcia <villagemanager@biscayneparkfl.gov>
To: bcooper@biscayneparkfl.gov
Cc: RMEYERS@miamidade.gov; villageclerk@biscayneparkfl.gov; attyhearn@aol.com
Sent: Fri, July 30, 2010 3:09:43 PM
Subject: RE: requesFrom

31

Vice Mayor Cooper,

bcc: Full Commission

Vice Mayor Cooper: I have attached the original email that you sent to the Clerk on June 18th when you first communicated your request and I quote you "to provide me with unlimited access to all village files and records for a period of 1 hour, for my personal research in the log cabin. I ask that you be present, as well as all staff who are related to any and all finance related procedures." In this original email, I the Manager am not copied. Per our Charter, it states that neither the Commission or its members shall give orders directly to any such officer or employee, either publicly or privately, who are subordinate to the Manager. That is the way that I have always handled such requests. We are and will continue to be very accommodating to all elected officials and residents provided that proper procedures are followed. To

8/25/2010

village clerk

From: Bryan Cooper [bryancooper7@yahoo.com]
Sent: Friday, July 30, 2010 6:55 PM
To: villagemanager@biscayneparkfl.gov; bcooper@biscayneparkfl.gov
Cc: RMEYERS@miamidade.gov; villageclerk@biscayneparkfl.gov; attyhearn@aol.com
Subject: Re: reqesFrom

Please forward to the full Commission:

It is my understanding that requests for information under the laws of the State of Florida do not require that you be informed or have any right to regulate my access to information. Sunshine requests stand as a citizen's right, which I do not give up when I become Commissioner. Thankfully, I am pretty certain that the attorney would agree with me, that the laws of the State and access to information supersede your attempts to lessen that access in my right to communicate to the Clerk, and not you as gatekeeper of public information. And you do not have any procedures, as stated verbally to me by Ms. Camara and a witness...except those that you seem to be making up as you go along. Since there are no written procedures that you have developed, or that you had communicated to your Clerk prior to my visit last week, your actions appear to me a problem.

I would like John's comments on best practices of municipalities, and if the manager controls Sunshine requests in other cities.

Bryan Cooper

From: Ana M. Garcia <villagemanager@biscayneparkfl.gov>
To: bcooper@biscayneparkfl.gov
Cc: RMEYERS@miamidade.gov; villageclerk@biscayneparkfl.gov; attyhearn@aol.com
Sent: Fri, July 30, 2010 3:09:43 PM
Subject: RE: reqesFrom

Vice Mayor Cooper,

bcc: Full Commission

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If you would provide us with some general description of the financial information you are requesting, we would know whether it would require the Finance Director (exempt), or the Finance Clerk (non-exempt) and/or the Manager to work on such request, meet with you and satisfy your request. Exempt employees on a regular basis stay beyond normal business hours to accommodate such requests. Thank you,

Respectfully,
 Ana M. Garcia
 Village Manager

From: Bryan Cooper [mailto:bryancooper7@yahoo.com]
Sent: Friday, July 30, 2010 8:25 AM
To: villageclerk@biscayneparkfl.gov; attyhearn@aol.com; bcooper@biscayneparkfl.gov

8/25/2010

village clerk

From: Bryan Cooper [bryancooper7@yahoo.com]
Sent: Friday, July 30, 2010 7:00 PM
To: villageclerk@biscayneparkfl.gov; bcooper@biscayneparkfl.gov
Cc: agarcia@biscayneparkfl.gov; attyhearn@aol.com
Subject: Re: request

Maria:

Please forward to full Commission:

You wrote: When I stated below in my response that you should make your request to the Commission, it was not to ask for their permission to do so,

Yet you wrote: 6. In regards to your request to sit with the Finance Clerk on Friday afternoon and have her run reports from the HTE Accounting system, you will need to make that request before the Commission

From: village clerk <villageclerk@biscayneparkfl.gov>
To: bcooper@biscayneparkfl.gov
Cc: agarcia@biscayneparkfl.gov; attyhearn@aol.com
Sent: Fri, July 30, 2010 3:19:56 PM
Subject: FW: request

Good afternoon Vice Mayor Cooper and Full Commission:

I just want to clarify once again that if this information you are requesting, or any other information you may request in the future, is available to provide to you through this office, it will. This applies to you and any other resident of this Village or any other agency making a public records request.

The Manager has provided additional information regarding your request no. 2 below, to receive a copy of the red-lined version of the Code from the Code Review Board. The Manager met with Commissioner Childress, who was the former chair of the Code Review Board, and has advised that a red-line version does not exist. What they have is a document in progress of all the sections they have reviewed and discussed to date. When I stated below in my response that you should make your request to the Commission, it was not to ask for their permission to do so, but to have a discussion at the dias on this subject.

Thank you.

Maria C. Camara, Village Clerk
Village of Biscayne Park
640 NE 114th Street
Biscayne Park, FL 33161
Tel: 305 899 8000, Ext. 201
email: villageclerk@biscayneparkfl.gov

From: Meyers, Robert (COE) [mailto:RMEYERS@miamidade.gov]
Sent: Thursday, July 29, 2010 11:07 AM
To: attyhearn@aol.com; bryancooper7@yahoo.com
Cc: villagemanager@biscayneparkfl.gov; villageclerk@biscayneparkfl.gov; vobparchives@biscayneparkfl.gov

8/25/2010

village clerk

From: Bryan Cooper [bryancooper7@yahoo.com]
Sent: Friday, July 30, 2010 7:08 PM
To: villageclerk@biscayneparkfl.gov; bcooper@biscayneparkfl.gov; RMEYERS@miamidade.gov
Cc: agarcia@biscayneparkfl.gov; attyhearn@aol.com
Subject: Re: request

This mail is to include Robert Meyers. Mr. Meyers, do you review the status of Charter violation charges?

Also, please comment then on the other mail from the Manger regarding the claim that I did not go through the manager in my request for public information, especially when Biscayne Park has no best practices codified or adhered to, as expressed by Ms. Camara to me and a witness.

It is my understanding that request typically go though a Clerks office, and not the Manger.

Your view? John Hearn's view?

Ms. Camara, please forward to the entire Commission.

Bryan Cooper

From: Bryan Cooper <bryancooper7@yahoo.com>
To: villageclerk@biscayneparkfl.gov; bcooper@biscayneparkfl.gov
Cc: agarcia@biscayneparkfl.gov; attyhearn@aol.com
Sent: Fri, July 30, 2010 6:59:57 PM
Subject: Re: request

Maria:

Please forward to full Commission:

You wrote: When I stated below in my response that you should make your request to the Commission, it was not to ask for their permission to do so,

Yet you wrote: 6. In regards to your request to sit with the Finance Clerk on Friday afternoon and have her run reports from the HTE Accounting system, you will need to make that request before the Commission

From: village clerk <villageclerk@biscayneparkfl.gov>
To: bcooper@biscayneparkfl.gov
Cc: agarcia@biscayneparkfl.gov; attyhearn@aol.com
Sent: Fri, July 30, 2010 3:19:56 PM
Subject: FW: request

Good afternoon Vice Mayor Cooper and Full Commission:

I just want to clarify once again that if this information you are requesting, or any other information you may request in the future, is available to provide to you through this office, it will. This applies to you and any other resident of this Village or any other agency making a public records request.

The Manager has provided additional information regarding your request no. 2 below, to receive a copy of the red-lined version of the Code from the Code Review Board. The Manager met with Commissioner Childress, who was the former chair of the Code Review Board, and has advised that a red-line version does not exist. What they have is a document in progress of all the sections they have reviewed and discussed to date. When I stated below in my

8/25/2010

village clerk

From: Bryan Cooper [bryancooper7@yahoo.com]
Sent: Monday, August 02, 2010 6:35 PM
To: attyhearn@aol.com
Cc: vobparchives@biscayneparkfl.gov
Subject: Re: one first step

John:

I saw a form for a Sunshine request; yet no policy you refer to below, on the website.

BC

From: "attyhearn@aol.com" <attyhearn@aol.com>
To: bryancooper7@yahoo.com
Cc: vobparchives@biscayneparkfl.gov
Sent: Mon, August 2, 2010 12:04:26 PM
Subject: Re: one first step

Bryan: I have no information to believe the Village is not in compliance with public records law. The Manager can provide you with the Village policy regarding public records law which is consistent with state law and other municipalities. The Clerk through the Manager responds to all public records request and provides same consistent with Chapter 119. If you have specific information revealing otherwise please provide to Manager and myself.

-----Original Message-----

From: Bryan Cooper <bryancooper7@yahoo.com>
To: attyhearn@aol.com
Sent: Sat, Jul 31, 2010 7:39 am
Subject: one first step

John:

>From what the Ethics Board head wrote to me it seems you are the first round of defense of Florida Law within the Village. You could answer the following, as he wrote as if it was your role to handle the query for me.

1. Is the Village in compliance with public records law at this time?
2. Is there any probable evidence that the Sunshine Law is not being adhered to?
3. Are there systems in place to assure people have access to the full rights of the Sunshine Law?

I will need to understand your view of this:

I will hold off on further consideration of our needing to move these and all other questions on to the State Attorney's Office until you answer me in the next few days (I HOPE).

If you think your rendering an opinion must come before the Commission as a whole, and that you must receive direction to make this analysis that I am asking for you as a Commissioner. Let me know.

Bryan Cooper

8/25/2010

village clerk

From: Bryan Cooper [bryancooper7@yahoo.com]
Sent: Wednesday, August 04, 2010 7:20 PM
To: villagemanager@biscayneparkfl.gov; attyhearn@aol.com
Cc: vobparchives@biscayneparkfl.gov; Finance Director
Subject: Re: Meeting With Finance Director

Mr. Hearn; a few thoughts and questions (and forgive me if I am reiterating):

Per my prior conversations with staff, and emails, I was advised that Mr. Arciola does not, by himself, have the skills to work and/or retrieve information from the HTE system. If I am wrong, please correct me. If he has skill sets, what are they?

I would also appreciate knowing if "easily retrievable", as you state, will be based on his skill set with the HTE system, or the staff that I was advised had the skill set.

Hence, although I will await word on the above, I would appreciate respect for my longstanding request to public records -- that the staff who I was told are versed in the system be present when I make my requests -- at hopefully this last meeting not yet scheduled.

This will save everyone time so there is not another canceling and lack of fulfillment.

Bryan Cooper

From: Ana M. Garcia <villagemanager@biscayneparkfl.gov>
To: attyhearn@aol.com; bryancooper7@yahoo.com
Cc: vobparchives@biscayneparkfl.gov; Finance Director <financedirector@biscayneparkfl.gov>
Sent: Wed, August 4, 2010 3:49:26 PM
Subject: RE: Meeting With Finance Director

I will have our Finance Director contact Vice Mayor Cooper Tomorrow to set up a meeting ASAP. Thank you.

From: attyhearn@aol.com [mailto:attyhearn@aol.com]
Sent: Wednesday, August 04, 2010 3:32 PM
To: bryancooper7@yahoo.com; villagemanager@biscayneparkfl.gov
Cc: vobparchives@biscayneparkfl.gov
Subject: Meeting With Finance Director

As I discussed at the meeting last night, and consistent with my conversations with both of you yesterday, the Manager will have the Village's Finance Director, Mike Arciola, schedule a mutually convenient time for Vice Mayor Cooper to meet and request information and items related to the Finance Department, including information from the HTE system. It is my understanding that making Mr. Arciola available will assist Vice Mayor Cooper in his seeking of certain documents which have not yet been requested. To the extent that the documents are easily retrievable, they will be immediately provided. To the extent that they are not, Mr. Arciola will retrieve them in a diligent and timely fashion. Ms. Garcia, can you please have Mr. Arciola email Vice Mayor Cooper to arrange for this meeting? I am hopeful that this will resolve this issue to the satisfaction of both parties. Thank you.

No virus found in this incoming message.

Checked by AVG - www.avg.com

Version: 9.0.851 / Virus Database: 271.1.1/3050 - Release Date: 08/04/10 00:45:00

8/25/2010

village clerk

From: Bryan Cooper [bryancooper7@yahoo.com]
Sent: Friday, August 06, 2010 8:28 AM
To: attyhearn@aol.com; villagemanager@biscayneparkfl.gov
Cc: vobparchives@biscayneparkfl.gov; financedirector@biscayneparkfl.gov
Subject: Re: Meeting With Finance Director

I received an email from Mr. Arciola to a personal account. This yahoo account is the best way to reach me Mr. Arciola.

Ms. Garcia, and Ms. Camara: Did you advise the Finance Director that I had let you know Monday through Thursday was typically very difficult for me; and that we had been trying for Fridays consistently for a long time now? He suggested this Monday or Tuesday. I guess this Friday was not possible...so another week is gone.

Monday is definitely impossible. I could try to arrange for Tuesday, but there was not mention of what hours of the late afternoon / early evening are possible. I also will need to check with my friend who would like to attend with me.

Although the Fridays keep ticking off, what about next Friday, August 13th as a possibility? (If I, and my friend, cannot get off from work early enough for Tuesday, that is.)

Bryan Cooper

From: "attyhearn@aol.com" <attyhearn@aol.com>
To: bryancooper7@yahoo.com; villagemanager@biscayneparkfl.gov
Cc: vobparchives@biscayneparkfl.gov; financedirector@biscayneparkfl.gov
Sent: Thu, August 5, 2010 12:14:59 PM
Subject: Re: Meeting With Finance Director

What I envision is that you will request documents and the documents that are available within the system and can be readily retrieved can be provided to you at that time. I would ask that Ana confirm that Mr. Arciola has the ability to retrieve information from the HTE system. If not, I would ask Ana to weigh in on the best way to address your concern. Thanks.

-----Original Message-----

From: Bryan Cooper <bryancooper7@yahoo.com>
To: villagemanager@biscayneparkfl.gov; attyhearn@aol.com
Cc: vobparchives@biscayneparkfl.gov; Finance Director <financedirector@biscayneparkfl.gov>
Sent: Wed, Aug 4, 2010 7:20 pm
Subject: Re: Meeting With Finance Director

Mr. Hearn; a few thoughts and questions (and forgive me if I am reiterating):

Per my prior conversations with staff, and emails, I was advised that Mr. Arciola does not, by himself, have the skills to work and/or retrieve information from the HTE system. If I am wrong, please correct me. If he has skill sets, what are they?

I would also appreciate knowing if "easily retrievable", as you state, will be based on his skill set with the HTE system, or the staff that I was advised had the skill set.

Hence, although I will await word on the above, I would appreciate respect for my longstanding request to public records -- that the staff who I was told are versed in the system be present when I make my requests -- at hopefully

8/25/2010

village clerk

From: Ana M. Garcia [villagemanager@biscayneparkfl.gov]
Sent: Thursday, August 05, 2010 1:02 PM
To: 'Bryan Cooper'; attyhearn@aol.com
Cc: vobparchives@biscayneparkfl.gov; 'Finance Director'
Subject: RE: Meeting With Finance Director

Good Afternoon Vice Mayor and Attorney Hearn. Finance Director Arciola will be here to work with the Vice Mayor, and will schedule with the Finance Clerk to be here to assist in ensuring we get the information needed.

Thank you
Ana Garcia

From: Bryan Cooper [mailto:bryancooper7@yahoo.com]
Sent: Wednesday, August 04, 2010 7:20 PM
To: villagemanager@biscayneparkfl.gov; attyhearn@aol.com
Cc: vobparchives@biscayneparkfl.gov; Finance Director
Subject: Re: Meeting With Finance Director

Mr. Hearn; a few thoughts and questions (and forgive me if I am reiterating):

Per my prior conversations with staff, and emails, I was advised that Mr. Arciola does not, by himself, have the skills to work and/or retrieve information from the HTE system. If I am wrong, please correct me. If he has skill sets, what are they?

I would also appreciate knowing if "easily retrievable", as you state, will be based on his skill set with the HTE system, or the staff that I was advised had the skill set.

Hence, although I will await word on the above, I would appreciate respect for my longstanding request to public records -- that the staff who I was told are versed in the system be present when I make my requests -- at hopefully this last meeting not yet scheduled.

This will save everyone time so there is not another canceling and lack of fulfillment.

Bryan Cooper

From: Ana M. Garcia <villagemanager@biscayneparkfl.gov>
To: attyhearn@aol.com; bryancooper7@yahoo.com
Cc: vobparchives@biscayneparkfl.gov; Finance Director <financedirector@biscayneparkfl.gov>
Sent: Wed, August 4, 2010 3:49:26 PM
Subject: RE: Meeting With Finance Director

I will have our Finance Director contact Vice Mayor Cooper Tomorrow to set up a meeting ASAP. Thank you.

From: attyhearn@aol.com [mailto:attyhearn@aol.com]
Sent: Wednesday, August 04, 2010 3:32 PM
To: bryancooper7@yahoo.com; villagemanager@biscayneparkfl.gov
Cc: vobparchives@biscayneparkfl.gov
Subject: Meeting With Finance Director

As I discussed at the meeting last night, and consistent with my conversations with both of you yesterday,

9/20/2010

village clerk

From: Ana M. Garcia [villagemanager@biscayneparkfl.gov]
Sent: Thursday, August 05, 2010 2:20 PM
To: attyhearn@aol.com; bryancooper7@yahoo.com
Cc: vobparchives@biscayneparkfl.gov; financedirector@biscayneparkfl.gov
Subject: RE: Meeting With Finance Director

A little history might help and I hope it will. Our former Finance Clerk was an independent contractor hourly, that had a flexible schedule and often worked later hours as our Former Finance Director was also an independent contractor who when she had to come work at the Village would be after hours also. Our current Director is exempt, and can certainly accommodate his schedule to meet after-hours. Our regular hours for our finance clerk is 9-5pm., But knowing ahead of time we can have her come in later and stay later to ensure that what is needed from her is delivered. Thank you. Ana.

From: attyhearn@aol.com [mailto:attyhearn@aol.com]
Sent: Thursday, August 05, 2010 12:15 PM
To: bryancooper7@yahoo.com; villagemanager@biscayneparkfl.gov
Cc: vobparchives@biscayneparkfl.gov; financedirector@biscayneparkfl.gov
Subject: Re: Meeting With Finance Director

What I envision is that you will request documents and the documents that are available within the system and can be readily retrieved can be provided to you at that time. I would ask that Ana confirm that Mr. Arciola has the ability to retrieve information from the HTE system. If not, I would ask Ana to weigh in on the best way to address your concern. Thanks.

-----Original Message-----

From: Bryan Cooper <bryancooper7@yahoo.com>
To: villagemanager@biscayneparkfl.gov; attyhearn@aol.com
Cc: vobparchives@biscayneparkfl.gov; Finance Director <financedirector@biscayneparkfl.gov>
Sent: Wed, Aug 4, 2010 7:20 pm
Subject: Re: Meeting With Finance Director

Mr. Hearn; a few thoughts and questions (and forgive me if I am reiterating):

Per my prior conversations with staff, and emails, I was advised that Mr. Arciola does not, by himself, have the skills to work and/or retrieve information from the HTE system. If I am wrong, please correct me. If he has skill sets, what are they?

I would also appreciate knowing if "easily retrievable", as you state, will be based on his skill set with the HTE system, or the staff that I was advised had the skill set.

Hence, although I will await word on the above, I would appreciate respect for my longstanding request to public records -- that the staff who I was told are versed in the system be present when I make my requests -- at hopefully this last meeting not yet scheduled.

This will save everyone time so there is not another canceling and lack of fulfillment.

Bryan Cooper

From: Ana M. Garcia <villagemanager@biscayneparkfl.gov>
To: attyhearn@aol.com; bryancooper7@yahoo.com
Cc: vobparchives@biscayneparkfl.gov; Finance Director <financedirector@biscayneparkfl.gov>
Sent: Wed, August 4, 2010 3:49:26 PM

9/20/2010

From: Finance Director <financedirector@biscayneparkfl.gov>
To: Bryan Cooper <bryancooper7@yahoo.com>; John Hearn <JH@coralsprings.org>
Cc: villagemanager@biscayneparkfl.gov; villagedclerk@biscayneparkfl.gov
Sent: Mon, August 9, 2010 9:16:17 AM
Subject: RE: Meeting With Finance Director

46

Commissioner Cooper,

I am in the office on Monday, Tuesday and Thursday until 7 PM or later, if that would help. This Friday I have an important dental appointment so I cannot meet with you on that day. Let me know if any of the other above mentioned days when I am here late will fit into your schedule.

Michael Arciola

From: Bryan Cooper [mailto:bryancooper7@yahoo.com]
Sent: Friday, August 06, 2010 8:28 AM
To: attyhearn@aol.com; villagemanager@biscayneparkfl.gov
Cc: vobparchives@biscayneparkfl.gov; financedirector@biscayneparkfl.gov
Subject: Re: Meeting With Finance Director

I received an email from Mr. Arciola to a personal account. This yahoo account is the best way to reach me Mr. Arciola.

Ms. Garcia, and Ms. Camara: Did you advise the Finance Director that I had let you know Monday through Thursday was typically very difficult for me; and that we had been trying for Fridays consistently for a long time now? He suggested this Monday or Tuesday. I guess this Friday was not possible...so another week is gone.

Monday is definitely impossible. I could try to arrange for Tuesday, but there was not mention of what hours of the late afternoon/ early evening are possible. I also will need to check with my friend who would like to attend with me.

Although the Fridays keep ticking off, what about next Friday, August 13th as a possibility? (If I, and my friend, cannot get off from work early enough for Tuesday, that is.)

Bryan Cooper

From: "attyhearn@aol.com" <attyhearn@aol.com>
To: bryancooper7@yahoo.com; villagemanager@biscayneparkfl.gov
Cc: vobparchives@biscayneparkfl.gov; financedirector@biscayneparkfl.gov
Sent: Thu, August 5, 2010 12:14:59 PM
Subject: Re: Meeting With Finance Director

What I envision is that you will request documents and the documents that are available within the system and can be readily retrieved can be provided to you at that time. I would ask that Ana confirm that Mr. Arciola has the ability to retrieve information from the HFE system. If not, I would ask Ana to weigh in on the best way to address your concern. Thanks.

-----Original Message-----

From: Bryan Cooper <bryancooper7@yahoo.com>
To: villagemanager@biscayneparkfl.gov; attyhearn@aol.com
Cc: vobparchives@biscayneparkfl.gov; Finance Director <financedirector@biscayneparkfl.gov>
Sent: Wed, Aug 4, 2010 7:20 pm
Subject: Re: Meeting With Finance Director

8/25/2010

village clerk

From: Ana M. Garcia [villagemanager@biscayneparkfl.gov]
Sent: Wednesday, August 11, 2010 5:55 PM
To: 'Bryan Cooper'
Cc: villageclerk@biscayneparkfl.gov; Rmeyers@miamidade.gov; financedirector@biscayneparkfl.gov; attyheam@aol.com
Subject: RE: Meeting With Finance Director
Vice Mayor,

We are here to serve you as we have served and continue to serve all other elected officials and our residents for that is your right and we respect that, and will work with you and anyone who has a records request or any request for that matter. We take pride in the personal service we provide for all our residents. Yesterday in anticipation of your visit we had adjusted schedules. In the municipal world most non exempt office personnel leaves at 5pm, but again we can adjust the Finance Clerk's schedule to accommodate your request. I can assure you there is no layering on our part, and I am sorry that you feel that way. In your initial request dated July the 30th, you requested of the Clerk that she be present as well as all staff related to any and all finance related procedures. Since we don't know what your request is, we must have both the Finance Director and Finance Clerk present. The Finance Director feels pretty comfortable but I want to ensure that we satisfy your needs and bring closure to this request to your satisfaction.

I have asked the Finance Clerk to adjust her schedule for tomorrow Thursday to come in later and leave later, and as the Finance Director has informed you he will be available also. Our Finance Director is off on Fridays, but as he communicated to you he has a dental procedure, otherwise he too would have come in.

Please let me know if Thursday you will be able to make it. Thank you.

Ana Garcia
Village Manager

From: Bryan Cooper [mailto:bryancooper7@yahoo.com]
Sent: Tuesday, August 10, 2010 4:30 PM
To: Finance Director; John Hearn
Cc: villagemanager@biscayneparkfl.gov; villageclerk@biscayneparkfl.gov; Rmeyers@miamidade.gov
Subject: Re: Meeting With Finance Director

Mr. Arciola:

I cannot make it tonight; I will see if Thursday might work, however I am covering for a Dean at a conference, so it is uncertain.

A question: As stated, I have been told that the staff can operate the HTE system to fulfill my longstanding Sunshine request. Is there are reason that you need to be preset on a Friday to fulfill the request? I worry about what appears to be new layering regarding my request.

Also, Mr. Hearn, below, asked if Ms. Garcia would confirm your ability to retrieve the information. I will look for her mail providing direct answer; but if you do not have the ability to fully retrieve information from system, but the staff do, can we go ahead with Friday as a possibility?

Thank you.

Bryan

8/25/2010

village clerk

From: Bryan Cooper [bryancooper7@yahoo.com]
Sent: Thursday, August 12, 2010 7:35 AM
To: Finance Director
Cc: villagemanager@biscayneparkfl.gov; villageclerk@biscayneparkfl.gov; Rmeyers@miamidade.gov
Subject: Re: Meeting With Finance Director

Mr. Arciola:

As I have stated, for months...Fridays are the days I work closer to the Village Hall. If your staff can provide all the reports I need, is there a reason that you need to be there this Friday, when I've been told that the staff can provide the reports.

I'd appreciate a direct answer.

Bryan Cooper

From: Finance Director <financedirector@biscayneparkfl.gov>
To: Bryan Cooper <bryancooper7@yahoo.com>
Cc: villagemanager@biscayneparkfl.gov; villageclerk@biscayneparkfl.gov
Sent: Tue, August 10, 2010 4:47:55 PM
Subject: RE: Meeting With Finance Director

Friday is not good because I have an important dental appointment with an oral surgeon and I probably will not be in any condition to drive or talk later that day. Thursday will be best. I do know the basics of how to retrieve data from the HTE accounting system for data that I use on a regular basis but if you are going to need some out of the ordinary information or data from other years I will have my staff person available to pull those reports, she is well versed in using the system.

Please let me know if you will be coming in Thursday evening so I can make sure we are prepared to work with you.

Thank you.

Michael Arciola

From: Bryan Cooper [mailto:bryancooper7@yahoo.com]
Sent: Tuesday, August 10, 2010 4:30 PM
To: Finance Director; John Hearn
Cc: villagemanager@biscayneparkfl.gov; villageclerk@biscayneparkfl.gov; Rmeyers@miamidade.gov
Subject: Re: Meeting With Finance Director

Mr. Arciola:

I cannot make it tonight; I will see if Thursday might work, however I am covering for a Dean at a conference, so it is uncertain.

A question: As stated, I have been told that the staff can operate the HTE system to fulfill my longstanding Sunshine request. Is there a reason that you need to be present on a Friday to fulfill the request? I worry about what appears to be new layering regarding my request.

Also, Mr. Hearn, below, asked if Ms. Garcia would confirm your ability to retrieve the information. I will look for her mail providing direct answer; but if you do not have the ability to fully retrieve information from system, but the staff do, can we go ahead with Friday as a possibility?

8/25/2010

From: village clerk <villageclerk@biscayneparkfl.gov>
To: bcooper@biscayneparkfl.gov
Cc: Rmeyers@miamidade.gov; financedirector@biscayneparkfl.gov; attyhearn@aol.com; agarcia@biscayneparkfl.gov
Sent: Thu, August 12, 2010 9:51:16 AM
Subject: RE: Meeting With Finance Director

Vice Mayor, I'm responding on behalf of Manager Garcia:

As stated below staff has adjusted their schedule for today in anticipation of your visit this afternoon. The Finance Clerk is coming in late and can stay late until 6-6:30PM, and the Finance Director can stay later.

Thank you.

Maria C. Camara, Village Clerk
Village of Biscayne Park
640 NE 114th Street
Biscayne Park, FL 33161
Tel: 305 899 8000, Ext. 201
email: villageclerk@biscayneparkfl.gov

From: Bryan Cooper [mailto:bryancooper7@yahoo.com]
Sent: Thursday, August 12, 2010 7:44 AM
To: villagemanager@biscayneparkfl.gov
Cc: villageclerk@biscayneparkfl.gov; Rmeyers@miamidade.gov; financedirector@biscayneparkfl.gov; attyhearn@aol.com
Subject: Re: Meeting With Finance Director

Ms. Garcia:

I have kindly advised numerous times that the information I seek can be provided by the support staff. I'm glad that you recognize it is ok to adjust support staff schedules as necessary. I have always said Fridays were best. For months now you and your staff have wanted to know in advance the nature of my request, and often at each delay of the service, and I have declined to share my request in advance of fulfillment, per my discussions in the past with John Hearn.

Question: If I can get away early today (which I'm uncertain of), what time will Mr. Arciola and staff be available until?

If it is too late, and the support staff have already arrived early this morning, meaning they cannot stay late, please advise as soon as possible.

Bryan Cooper

From: Ana M. Garcia <villagemanager@biscayneparkfl.gov>
To: Bryan Cooper <bryancooper7@yahoo.com>
Cc: villageclerk@biscayneparkfl.gov; Rmeyers@miamidade.gov; financedirector@biscayneparkfl.gov; attyhearn@aol.com
Sent: Wed, August 11, 2010 5:54:47 PM
Subject: RE: Meeting With Finance Director

Vice Mayor,

We are here to serve you as we have served and continue to serve all other elected officials and our residents for that is your right and we respect that, and will work with you and anyone who has a records request or any request for that matter. We take pride in the personal service we provide for all our residents. Yesterday in

8/25/2010

village clerk

From: Bryan Cooper [bryancooper7@yahoo.com]
Sent: Thursday, August 12, 2010 3:24 PM
To: villagemanager@biscayneparkfl.gov; villageclerk@biscayneparkfl.gov; bcooper@biscayneparkfl.gov
Cc: Rmeyers@miamidade.gov; financedirector@biscayneparkfl.gov; attyhearn@aol.com; agarcia@biscayneparkfl.gov
Subject: Re: Meeting With Finance Director

Ms. Garcia:

It looks like I have an Associate Dean who will be here for me this afternoon, so I can leave early and hopefully before traffic. Unless something upsets this, then I will try to get there in time to work with the extended hours that you arranged before I could assure my arrival.

If something comes up, I will send an email using my phone.

Bryan

From: Ana M. Garcia <villagemanager@biscayneparkfl.gov>
To: Bryan Cooper <bryancooper7@yahoo.com>; villageclerk@biscayneparkfl.gov; bcooper@biscayneparkfl.gov
Cc: Rmeyers@miamidade.gov; financedirector@biscayneparkfl.gov; attyhearn@aol.com; agarcia@biscayneparkfl.gov
Sent: Thu, August 12, 2010 12:08:05 PM
Subject: RE: Meeting With Finance Director

Vice Mayor,

We have scheduled two days this week to accommodate you. I have told you that the Director who is off on Fridays would have been here but he has an appointment. By what you are communicating to me who you want to meet with is our Finance Clerk, who as you know is a new hire and has been on her current position for six months that is why I wanted to include the Director also to ensure you got the most out of your visit. With that said we can arrange to have you meet with the Finance Clerk and the Village Clerk Tomorrow as long as the meeting is concluded by 5pm. Thank you.

From: Bryan Cooper [mailto:bryancooper7@yahoo.com]
Sent: Thursday, August 12, 2010 10:09 AM
To: villageclerk@biscayneparkfl.gov; bcooper@biscayneparkfl.gov
Cc: Rmeyers@miamidade.gov; financedirector@biscayneparkfl.gov; attyhearn@aol.com; agarcia@biscayneparkfl.gov
Subject: Re: Meeting With Finance Director

Thank you Ms. Camara:

I appreciate the arranging of the staff schedule, even though it was unclear if I can get away. I hope to know after an afternoon meeting today, and will notify you as soon as possible concerning my presence and that of the resident who is to attend with me.

I take it -- by the other question going unanswered now for several mails: that Ms. Garcia will not allow for the provision of the Sunshine request on Friday by allowing the staff trained to be there without Mr. Arciola present?

Bryan Cooper

8/25/2010

COMMISSIONER
BERNARD
EVALUATION OF
MANAGER
AND E-MAILS OF
8/2/2010
AND
8/24/2010

Robert D. Soloff

From: Bryan Cooper [bryancooper7@yahoo.com]
Sent: Sunday, October 10, 2010 10:28 AM
To: Robert D. Soloff
Cc: attyhearn@aol.com
Subject: Re: Village of Biscayne Park Investigation

Mr. Soloff:

By way of this email, I am advising you of a public document that I have recently read (an annual evaluation of Village Manager submitted at a Commission meeting by Commissioner Bernard). It has relevant information that you should review in light of your investigation and the questions you asked me, and the answers I provided; as well as what you told me you would look into directly per our discussion.

I have bcc'd the other Commissioners on this email, and of course they will **not** respond to all and start any discussion as this would violate Sunshine Law.

However, I am requesting that Commissioner Bernard send an electr

I am also asking that Commissioner Bernard make his copy available though they have it in print already.

I know you stated in our meeting that you did not want to receive it. And, I believe I have forwarded already only 2 or 3 emails to you as soon as possible to you.

Please let us know when you are in receipt.

Thank you.

L. Bryan Cooper
Vice-Mayor, Village of Biscayne Park

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*Commissioner
Bernard
Evaluation
of Village
Manager*

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be sent as

**Performance Evaluation Position of Village Manager
Village of Biscayne Park, Florida**

General Scope of Position

Provide overall management for the Village of Biscayne Park including staff, budgets, services, outside agencies/service providers, develop policies as needed, and implement policies/decisions of the Village Commission and Mayor.

Responsibilities

- Direct and manage the development and implementation of Village goals and objectives, recommend and administer policies, procedures, and priorities for service areas; allocate resources accordingly.
- Provide highly responsible administrative staff assistance to the Village Commission; confer with the Village Commission regarding a wide variety of municipal government issues; recommend policies, procedures and actions to be taken by the Village Commission; implement Village Commission decisions or directives.
- Oversee and participate in the development and administration of the Village budget; direct the forecast of funds needed for staffing, equipment, materials and supplies; submit annual operating and capital budget to Village Commission; administer approved budget; implement mid-year adjustments. Oversee financial, cash procedures.
- Plan, direct and manage the Village's work plan; meet with management staff to identify and resolve problems; assign projects and programmatic areas of responsibility; review and evaluate program goals and objectives.
- Follow Biscayne Park Charter; hire/fire and evaluate performance of employees
- Continuously monitor and evaluate the efficiency and effectiveness of Village service delivery methods and procedures; assess and monitor workload, administrative and supports systems, and internal reporting relationships; identify opportunities for improvement; direct the implementation of changes.
- Represent the Village to other public agencies, community-based organizations, elected officials, outside agencies, and the mass media; explain, interpret, justify and defend Village programs, policies and activities; negotiate and resolve sensitive, significant, and controversial issues.
- Be aware of outside forces such as activities of surrounding municipalities, Miami-Dade County, FEC, etc.
- Respond to and resolve difficult and sensitive citizen inquiries and complaints; assign departments to resolve citizen complaints and concerns in a timely manner.

Final page of this evaluation form has a summary box to contain a total of the points awarded on the evaluation form, rather than an average. There is also a box for total number of points possible e.g. if every category were evaluated as a "4." This allows for a comparison of a "perfect score" vs. evaluation score. A third box is for total rating based on comments and points awarded.

There is also an area to record summary comments, which should be reflective of the total evaluation points. Note that each skill set/core competency also contains an area for recording of comments specific to that skill set, record comments for each skill set. Comments should reflect specific examples of observations of skills either above or below an acceptable standard, not simply "Employee does a good job in this area."

This is the clearest method by which decisions and/or actions can be supported by evaluation documentation. It also gives the most flexibility, within the bounds of an evaluation process. Comments become equal in importance to the numeric rating.

Do not use a mathematical average, e.g. totaling the evaluation points, then dividing by the number of skill sets being evaluated. It seems logical. However, the primary weakness of this method is a possible conflict between the mathematical score and the comments. For example, suppose that the employee receives the highest ratings in all but one category, in which he receives the lowest possible rating, a "1." Further suppose that this is a skill considered essential for successful performance of the job, like Financial Management or Communications, rather than a skill such as Use of Technology. Under this scenario, the employee could receive an extremely high average rating, but it might be necessary to make the recommendation to implement a performance improvement plan, a disciplinary action, or a termination.

Comments, both at the individual skill level and in summary, are truly the most important part of the written evaluation form.

Rate the individual in each of the following Skills, Knowledge, Abilities and Competencies as:

- 4 *Exceptional*
 - The individual consistently exceeds expectations and exemplifies extraordinary abilities and competencies in both quantity and quality. The performance is sustained over the review period.
- 3 *Fully Successful*
 - Individual meets and may at times exceed the position's competency levels in both quality and quantity. The individual is fully functioning in the position and meets expectations of performance.
- 2 *Usually Meets Expectations* **(I added 1.5, "SOMETIMES MEETS EXPECTATIONS")**
 - The individual may not meet expectations in the job criteria and may need training. A performance improvement plan will be developed to improve the performance to an acceptable level.
- 1 *Unsatisfactory*
 - The individual has failed in meeting expectations in the job criteria. A performance improvement plan will be developed to improve the performance to an acceptable level.
- NA *Not Observed*
 - The specific behavior has not been observed in the individual.

Skills, Knowledge, Abilities and Competencies

1. **Communication:** Skills and ability to communicate both verbally (briefings, meetings, etc.) and in all written forms (memoranda, email, etc.) to a broad variety of recipients/audiences (peers, staff, outside agencies, Village Commissioners, public, vendors/service providers, media, etc.). Knowledge of negotiating principles, ability to facilitate sensitive issues and reach a positive result.

Rating **1.5** Comments:

Sometimes Meets Expectations

The Manager's ability to communicate is usually successful when the subject matter is non-confrontational and there is a perceived general agreement among Commissioners. However, on difficult subjects, in both email, phone calls, and sometimes in public, there is a tendency to not directly approach the difficulties unless pointedly or repeatedly requested.

Emails and phone calls are promptly responded to, however, there have been numerous times when an answer is not fully provided, which results in additional communications and unnecessary discussions.

Some specific examples include questions on Agenda Items, budget issues and police manpower, sometimes resulting in a need to publicly request answers on items that could have been cleared up prior to meetings.

2. Management:

A. Ability and knowledge to manage a diverse organization and staff through performance guidelines, approved policies, coaching and mentoring.

B. Ability to provide guidance to employees on skills, knowledge, abilities and competencies for employee development, improvement and enhancement. Creates an atmosphere of potential for employee career development through succession planning.

Rating **1.5** Comments:

Sometimes Meets Expectations

The Manager came into a situation where there were few approved policies or guidelines, and there have been no apparent attempts to formalize such management tools as job descriptions, Village-wide policies and procedures, or other professional management tools. With the extremely small staff, having written policies, creating and sending to Commission for confirmation of them (even after difficult situations arise) would be beneficial.

When asked at a recent Meeting about Job Descriptions, the Manager stated that an outside consultant would be required to create one, without recognizing the ability of our Police Chief's HR education.

The resignation of a former consultant and subsequent discussions on how it was handled by the Manager does not show good management skills, and could serve as a negative example to remaining Staff about the detriment of openly speaking their minds on issues.

I have felt that there is too much micro managing, taking more time to work out resident's issues than delegating to department heads so that she can concentrate on larger issues.

3. **Leadership:** Application of strong leadership principles both internally and externally of the Village. Communicates and provides vision of the Village's future. Exemplifies ethics and integrity.

Rating **1** Comments:

Unsatisfactory

The Commission as a whole does not work well together, the Community is divided over the most basic issues, Staff has communicated indirectly, directly and anonymously of internal strife, and outside consultants have expressed unnecessary difficulties.

My opinion is that with stronger leadership, many of the problems could be resolved, but it seems that often decisions are based less on facts than on politics and expediency.

One example is how the 2 Code of Conduct Ordinances are clearly more than required to help the Commission work together, and based on a telephone conversation with the Manager, not appropriate for where we're at, the phrase used "we're like the Brady Bunch compared to the city these were written for", but I have seen no attempt on the Manager's part to diffuse the situation.

On a positive note, the Manager has written at least 20 "Friday Reports", a good way to informally give an overview of what has happened the previous week, and a very good tool to quickly give a heads up to Commissioners.

4. **Budgets and Finance:** Ability to oversee all areas of the Village's financial operation including budgeting process and controls, alternative financial programs, and accurately reports all budget variances to the Village Commission and public. Rating **1** Comments:

Unsatisfactory

The most disappointing aspect of this evaluation is how the Finances have been handled. For months we did not have a Finance Director, and no matter how hard it may have been to find someone, our Village has suffered. After the 1st quarter Financials were approved in March, there have been no 2nd or 3rd quarter Financial Reports, up to and including when the 2011 Budget was presented. Without this information, it is impossible to keep an eye on Village business, to determine if resources are being spent correctly, and where we were headed for the year.

The Budget for the Sanitation Fee had to be brought up as a Special Commission meeting with very little warning, with the final data being given to the Commission on the day of the meeting, and with a warning that it was due to the County only a few days later. It seems that it was forgotten about until the last minute, and as a result, we have to work with a final number for which the details have changed several times. The "Administrative Fee" has been handled poorly, with an unreasonable rationale, and my attempts to bring it before the Commission for discussion have been delayed to the point where it may be too late to correct. This may have an impact on our General Budget, and should never have happened in such a rushed manner.

The lack of detail in the 2011 budget is distressing, even after requests made by other Commissioners. There has not been any physical backup, there are no line item descriptions, there is little explanation for increases or cuts, and the Manager's public statement "you usually don't justify when you're cutting a line item" shows a lack of experience that permeates throughout the document and culture of this budget season.

5. **Operations/Village Administration:** Knowledge of municipal operations both tactically and strategically. Understands processes, systems and effective review procedures. Allocates appropriate levels of funding, staff and other resources to assure successful operations of the Village.

Rating **2** Comments:

Usually Meets Expectations

Despite the Manager's inexperience as a City Manager, the Village has had the benefit of Ms. Garcia's substantial energies. She seems always is ready to jump in and personally do any job that she asks of her Staff.

There are several areas of improvement that have not yet been done, including creating and following Management guidelines, and timely hiring of required staff (the Finance Director position had been open until May, 2011).

I can not speak to the specific knowledge or application of municipal operations from a Staff level, but most of the complaints I have heard from residents have been handled personally by the Manager, which is a double edged sword...I would prefer that Department Heads handle the first layer of problems, instead of what I perceive is the Manager working on her best attributes – public relations.

What I have heard from the resigned Contract employee was disturbing as it relates to finance and procedures, but my attempts to determine those facts have been stymied because the Manager told me that 3 of the 5 Commissioners spoke with other Staff with the Manager present (a procedure that the Village Attorney stated was not best practice), and that they were satisfied.

6. **Policies/Procedures:** Ability to interpret, implement and develop compliant Village policies and procedures pertaining to staff, operations, resources and accounting.

Rating **1** Comments:

Unsatisfactory

The only new written Policy created by the Manager I can recall is a "Public Records Request Form" that seems to have been created after one Commissioner had difficulty in obtaining public records. For some reason this form is in the "Agenda" portion of the website.

There was an Ordinance passed for Boards and Committees that set ground rules, but if there are any other new policies or procedures created by the Manager I am not aware of them. Especially (as recommended by auditors) Cash Management at the Rec Center, Policies & Procedures (including capital assets monitoring), and (also as per the CAFR) post employment benefits and more current budget amendments (Management proposed to process budget amendments more often, at least once after the closing of the second quarter and again early in the fourth quarter of the fiscal year, and I do not think this has been done).

Perhaps most indicative of the potential problem of not following procedures is this evaluation, which the Commission voted to do verbally, instead of in the written. As the Commission debated the best course of action, the Manager did not convey to us that the written form was required by the Manager's Contract, which will now result in confusion at the Special Commission Meeting that was set specifically to evaluate job performance.

Instead, a form was created by Staff to show how many cities do not use written evaluations, a moot point, since the Contract is clear.

7. **Government Regulations:** Working knowledge of all regulations, laws, acts and other legal governance as they pertain to the Village, operations, staff and financial management.

Rating ☒ 2 Comments:

Usually Meets Expectations

While never having been a City Manager previously, the end result of Government Regulation issues somehow usually turn out ok, probably because of the Manager's ability to work with other government officials and relying on contacts she has made during her lifetime of working as a city official. The Manager seems to be able to figure out what ultimately needs to happen, and gets the job done, albeit not always to the more profitable conclusion, the Sanitation Budget as one example.

A recent issue that came up with the removal of what seemed to be a live tree, without the photographic and written documentation that the Manager had previously stated in private emails and meetings as well as public meetings stated she was aware of. After several failed attempts by email to obtain answers about the event, a simple "a permit was obtained" was emailed by the Manager, with no explanation of how or when it was obtained.

I have been told by a former employee that certain important finance issues may not have been done properly, but have no conclusive proof, nor does it seem that I'll be able to discover their veracity because the Manager stated that the majority of the Commission is satisfied with the circumstances of the resignation.

8. **Public Relations:** Skill and ability in all areas of relations, communications and interactions with the public including consistently providing credible, viable and accurate information regarding Village activities.

Rating ☒ 4 Comments:

Exceptional

The Manager has, at least on outward appearances, seemed to have pleased the majority of about a dozen residents who have emailed the Commission regarding her evaluation, as well as several other residents who have commented on how she has personally resolved their issues, including code violations and repair from construction work.

This is the Manager's best attribute, as she truly seems to enjoy meeting residents, speaking with government officials, and taking the time to extol the successes of the Village, usually including her Staff and Commission in what went right.

The majority of residents I have spoken to appreciate the time the Manager takes to resolve their problems, as one resident stated, "She... has made every effort to accommodate any request I have made, however small".

9. Community Development/Redevelopment Planning: Current and relevant knowledge of all areas of planning as it pertains to the Village. Ability to provide management of programs in development, redevelopment, zoning, land use, special financing and other tools critical to the Village's current and future plans.

Rating **1.5** Comments:

Sometimes Meets Expectations

Regarding the Comp Plan, North Miami, and being aware of surrounding areas, there has been a lot to be desired.

The first amendment to the Comp Plan was presented to the Commission without sufficient information on the original Comp Plan for significant decisions to be made, and I for one was not made aware of the previous Zoning Board meeting where the amendments were discussed and agreed to.

As far as North Miami Zoning changes and Water Bill issues go, I felt responsible to make sure that any overseeing that was done on the final wording and requests via our Village Consultant was done by myself, although I thought I had given enough information to Staff.

The BP Commission was not informed that Miami Shores had passed their FPL Franchise Agreement on first reading, and I was only made aware of the date of the second hearing the day before, which was too late to discuss significant issues with the MS Commission.

There appears to be better communication in the last couple of months with NM, but still no followup of the status of BP resident's water bill capital improvement fee.

10. Quality of Results/Output: Ability to meet and/or implement standards of quality (accuracy, timeliness, thoroughness, completion, etc.). Skill to produce at a rate of delivery that is consistent with position.

Rating **2** Comments:

Usually Meets Expectations

Monthly review of Commission consensus or direction shows that specific Commission requests are either postponed or do not come to conclusions. Examples include the Storm Drainage project, the tree removal permit, Manager's Evaluation (there was nothing on the Agenda for the required 6 month probation evaluation, and the first time this Evaluation appeared on an Agenda was in June), and as this is being written, I am still not sure why a written evaluation per the Manager's Contract was not approved at the August meeting, the Village Foundation (which has been rudderless until recently, and Code review issues that seem to be agreed upon by the Board.

Budgets have not included requested and specific backup to prove assumptions.

2nd & 3rd Quarter Financials with Cash balances were never presented to the Commission

Minutes have taken months to produce (prior to the July Meeting, only 4 out 12 meeting minutes were presented to the Commission), and are difficult to find on the website because they are only incorporated into the meetings where they were approved, not as stand alone minutes)

The FPL Franchise Agreement discussion did not have any leadership. I felt forced to research and explain facts, because there was no one clearinghouse source to separate facts from mis-information.

11. Strategic Planning: Competencies in all areas of strategic planning which may include financing, resource/staffing allocations, growth of the Village, and service provisions. Demonstrates an understanding, a macro view of the Village's operations and charter.

Rating **1** Comments:

Unsatisfactory

A review of the Agendas since 10/9/09 show that there were only 3 Grants approved by the Commission to be submitted, 2 of which could have been mostly handled by the Police Chief, and the third (a forest health initiative - \$24K non-matching grant to trim trees) that was approved on 1/12/10 has not been discussed since, according to my records.

In response to Commissioner Coopers request that the Manager review all of the previous studies done for the Village (CPTED, Traffic, Charrette, etc), the Commission could not come to an agreement, but I have not heard any thoughts on projects that are 'on the shelf' as per those studies.

A strategic Planning session has been set up for October, but it was suggested by the Commission, and seems to be the result of the Commission's inability to work together... which indicates a strong need for outside leadership such what a Manager could provide.

Attempts have been made by the Manager to incorporate legislative assistance in Tallahassee, which may result in some long term projects.

12. Village Commission Relations: Ability to work effectively work with the elected Officials of the Village. Communicates clearly and effectively all matters pertaining to the Village's staff, operations resources, finance and any other area of relevance in an honest, clear manner.

Rating **1** Comments:

Unsatisfactory

This could be the Manager's most deficient area. I have personally had several conversations with the Manager that resulted in either public denials of our conversations or misconceptions that make working with my fellow Commissioners difficult. At times I relied on our phone calls or private meetings, only to find that the Manager later either did not confirm her understanding and agreement, or remained silent as I proceeded to explain or act on issues. Worse, there were at least two occasions when the Manager alleged that I was either accusing her of lying (regarding my understanding of the resigned Consultant) or of disrespecting her (regarding poor notification and dissemination of the Sanitary Budget information). In my opinion, I was expressing my valid disappointment, and was shut down immediately without the ability to fully discuss. As a result, and after enough of these incidents to occur, I tried to constrain my communications to emails, so that there could be no more potential accusations of impropriety. My decision to do so was a difficult one, as it makes communication difficult, but it is necessary until a broader understanding is reached. I have attempted to follow up with emails, only to be asked repeatedly to meet in person, something that even given my time restraints, I am not comfortable with.

Other examples of not being able to rely on the Manager's spoken word include work done on the ARRA grant, the anonymous (and cleared) ethics charge based on a Staff Member's report, and a phone conversation regarding the 2 Conduct Ordinances and her public denial of that conversation.

13. Growth/Financing/Capital Project: Knowledge of current issues, trends and methods in growth, financing and new/improving capital projects. Keeps current through seminars, publications, etc. on all pertinent changes, avenues and thoughts in these areas.

Rating **2** Comments:

Usually Meets Expectations

As I understand it, the Manager speaks often with other Managers, and is aware of political events in both South Florida and Tallahassee. I recall several times when seminars and certificates have been attended or achieved, with several Staff members also participating.

As far as Capital Projects go, the Manager has handled more construction in this Village than I can recall having been done for a long time. While all or part of the projects were funded by grants obtained under the previous Administration, the administration of the grant were accomplished by the current Staff. Under her watch, the Rec Center, 6th Avenue Beautification, the Entry Sign, the Public Works building, and the shade structures will be completed.

While this has taken a lot of time, it will be worth it, as the bulk of our Capital Improvements will be completed for the foreseeable future.

I am disappointed that more leadership wasn't shown for the ARRA Pathway's grant that could have resulted in a safer environment at virtually no cost to the Village.

14. Organizational Effectiveness: Skills, knowledge and competency to create and maintain an environment that fosters effectiveness throughout the Village. Provides the appropriate resources, staff, budgets to complete assigned tasks in an effective and timely manner.

Rating **1.5** Comments:

Sometimes Meets Expectations

This is a difficult area in such a small Village, but while our Staff seems to be valiantly trying to stay on top of every issue that has to be covered, I am constantly hearing that there's not enough time in the day, or not enough Staff to handle an item. Due to our small budget, we simply have to recognize what can and cannot be done, and the prioritizing of workloads is crucial.

I have seen many emails being sent from the Clerk and the Manager late into the evening, and while the efforts are appreciated, the reality is that working late so many nights is not the most efficient way to run a Village. There have been numerous times that a detailed analysis of systems would have helped make decisions, but instead, and often as per Commission direction, those details were not provided, which led to questionable final decisions by the Commission.

On the other hand, there have been at least a couple of occasions when reports surveys of other cities were put together at some times to prove one point or another, when it would have been more realistic to rely on our own situation to make decisions. These studies are often only given to the Commission at the start of meetings, making it difficult to review and research on our own prior to discussions.

Again, there are no job descriptions or Policies and Procedures, two managerial tools that might help organize Village Hall.

15. Planning/Organization/Prioritization: Ability to identify priorities, organize work and allocate time to effectively manage all areas of responsibility for the Village Manager position. Communicates any changes that may affect the outcome of projects, programs or any other related area.

Rating **1.5** Comments:

Sometimes Meets Expectations

Difficult conditions make achieving these goals a challenge, but there is major room for improvement to work within our means.

The prioritization seems to be missing at crucial times, with the TRIM, the Sanitation Budget, the Health Insurance deadlines all coming to the Commission at the last minute. This forces decisions to be made, regardless of whether all the facts are in place.

In the case of the Health Insurance, the Clerk managed to work up an excellent result, but that doesn't mean that we couldn't have been investigating it for a longer time, and as I recall, there were two companies that made submittals after our decision.

In the case of the Sanitation budget, a \$50,000 Administrative Fee was approved pending further review, and it has now gone up to \$73,000. and still needs backup.

The planning of Agendas and budgets has also seemed haphazard at times, with items being brought before the Commission even as we sit down to begin discussions, which does not allow for prior research. The last budget workshop included several separate emails with revisions and clarifications that were difficult to absorb at the last minute.

16. Electronic Tools: Ability to utilize electronic tools, computers, software packages/programs, planning tools, etc.

Rating **3** Comments:

Fully Successful

With three exceptions, the Manager seems to have a strong handle on electronic tools. Email responses are usually very prompt, her reliance on her phone allows easy contact, and I'm not aware of any meetings that were missed or where tardiness was a problem. The Website has been improved significantly, although there is still room for improvement.

The first exception is the use of the Village email blast to notify residents who have requested to be notified about meetings or other events. It has taken several conversations both privately and publicly to achieve the recent change.

The second is with the content of emails received. It is rare to receive an email from the Manager that has a copy to the Village Archive, although the Commission directed all official emails to be send there as a means to easily find public records. There was also an issue where even though the Manager had been sending response emails to me and the rest of the Commission (a good thing), there was a period of time where I kept requesting that a BCC be shown, and it took about a month before my request was understood. The Manager took it as a learning experience, and has since continued sending communications to all, with a BCC shown.

Our Village Email Listserve has been up until recently rarely used to remind residents of meetings, policies, events, etc.

The Manager seems to handle a many emails on a daily basis, and consistently responds during non-work hours, proof of how hard she works.

Summary

64	Total Number of Points Possible
27.5	Total Evaluation Points Awarded
1.7	Total Rating Based on Points Awarded and Comments

Comments To Explain Total Rating:

- 1. I was uncomfortable using a rating of '2' for some of the above categories, because of the difference between the phrase "Usually Meets Expectations" and "The individual may not meet expectations in the job criteria and may need training", hence the 1.5 rating, "Sometimes Meets Expectations".*
- 2. There was no category of 'Work Ethic', but I think that the Manager certainly puts her heart and soul into tasks that she deems necessary. I have received many emails after 5 pm, which great in terms of getting the job done, but which also shows a lack of organization that would require putting in extra hours.*
- 3. This above evaluation was based on a review of numerous communications and emails, and does not include every accomplishment and failure. Overall, I have been more disappointed than satisfied with the style and results of the Manager. Perhaps with encouragement, the Commission can work together to help direct the Manager to accomplish these deficiencies, but it must be first recognized that the Commission's failure to work together is at least in part the result of the Manager's style of first determining the level of support an issue has, and then working to make that resolution come about.*
- 4. As my evaluation last year stated, to evaluate any Employee properly, a review of directions given to her upon hiring is in order. As far as I know, there is still no formal 'Job Description' provided for the Manager's position, so this evaluation was mostly based on personal expectations, as well as responses to both private suggestions and public requests/directions as part of the Commission. It is difficult to ask an employee to follow Job Responsibilities if they have never been provided previously, but hopefully this evaluation will begin that process.*

5. *Examples of disappointments:*

- a. *Attorney did not review Contract bid form prior the Recreation Center Hardening Project being bid.*
- b. *Storm Drainage project prior bid was not reviewed by the Attorney prior to the Manager's 1st recommendation (the actual Contract could not be found by Village Staff) and even after the second recommended did not investigate the possibility of a re-bidding of the job. Commission direction to obtain cost to re-bid was not followed*
- c. *Recommendations on many Agenda items not given*
- d. *Art donation – At least some Commissioners were not advised of this item until the end of a Commission Meeting, photos, specs, etc could have been given out prior to meeting for review*
- e. *Newsletter – during discussions of removing Commissioner articles from the Newsletter, at a meeting where the item was not noticed, when asked how much each Newsletter cost, the Manager's response was "Approximately \$1,000" without mentioning that almost the full cost was covered by advertisements.*
- f. *Ethic complaint – even though a Staff's Report regarding a problem with a roofer doing work without a permit was written the day after the incident, and even though the report stated, "I (the Staff member) spoke with the Manager", there was no mention in the Report of the fact that the Manager and I had two separate discussions regarding the matter, and as result, an anonymous complaint forced me to (successfully) defend myself against a false claim. I do not know why the Manager either did not tell the Staff member of these conversations, or did not correct the report after it was submitted to her, but it was not what I would expect a Manager to do.*
- g. *Commission direction (in March 2010) to follow up on the status of BP Resident's extra Water Bill Capital improvement fees, and whether the NM Resolution to allow it's use for operational costs was not followed.*
- h. *TRIM Notice Special Commission meeting was called too close to the deadline to have a proper review of the Proposed Budget prior to approving.*
- i. *Manager stated that she has never reviewed minutes, nor gave direction to a new Clerk who had never been a clerk before*
- j. *Numerous issues about sunshine - asking the Attorney if village emails can be given, not sending out salary information because one Commissioner erroneously stated that we have never done that, demanding that the Commission requests for information go through the Manager instead of the Clerk (after the fact, after an accusation of a Commissioner violating the Charter was sent to the ethics board).*

*Submitted on 8/31/10
Steve Bernard
Commissioner
Village of Biscayne Park, FL*

-----Original Message-----

From: Steve Bernard <steve@stevebernardarchitect.com>

To: attyhearn@aol.com

Sent: Tue, Aug 24, 2010 2:46 pm

Subject: Attorney Investigation

Attorney Hearn,

This is a forward of the email that I sent to you on 8/2/10, regarding the Manager's allegation that Cooper violated the Charter by giving "orders" directly to a subordinate. I'm including that email she sent on July 30, 2010 (which she also sent to the Robert Meyers of the County Ethics Board) that I hadn't included to you before, so that you can refresh your memory and be able to forward to Mr. Soloff the complete story in one email.

The reason I bring this to your attention again is that I went through a similar accusation (albeit 'anonymous' and ultimately dropped by the County Ethics Board) of violating the Charter, and a former Village employee later made a comment about how I didn't know what really happened. Thinking about it now, and you and I have discussed this previously, on the morning of 1/13/10 I spoke with the Building Official regarding a roofer who did work without a permit, with an immediate phone call followup to the Manager to advise her of that conversation.

That same afternoon, I met with the Manager at the park to discuss a new shade structure, and I pointed out the house (across the street) in question and how the odd configuration on the roof could allow water to leak in during termite tenting if the roofer was not allowed to dry it in, and we again discussed exactly what I discussed with the Building Official. The Manager has confirmed via telephone that she recalled both of those conversations.

But what's curious is that the report written by the Code Enforcement Officer was dated the next day (1/14/10), and includes the statement "When I returned to the office I advised the Manager of what happened"... but there is no mention of the telephone conversation I had with the Manager immediately after my conversation with the Building Official that should have cleared up any potential violation of which I was accused. The Officer's report also did not mention the additional conversation with the Manager that 1/13/10 afternoon at the park, or again my involvement in the report might not have ever been necessary, even though the report was written the next day, and the Manager had plenty of time to explain this to the Officer.

Either way, I see this as the Manager either making or allowing false accusations of the same violation of the Charter by two separate Commissioners, and that connection is disturbing to me. And since the Manager's accusation of Cooper's Violation of Charter was sent to the entire Commission on the same day (8/2/10) as the other allegations against him, I believe that all of these issues and accusations should be investigated. After all, it was that series of emails on 8/2/10 that prompted Commissioner Childress to ask for an investigation.

Finally, there were several emailed statements made by the Manager, or by the Clerk on behalf of the Manager, in relation to Commission Cooper's requests that I also found disturbing, including:

1. (Clerk) In regards to your request to sit with the Finance Clerk on Friday afternoon and have her run reports from the HTE Accounting system, you will need to make that request before the Commission. The Manager and I consulted with Attorney Hearn and this request does not fall under the normal guidelines of a public records request and will need to be discussed by the Commission.

My thoughts - Both the previous Finance Director and Clerk told me that running a report via HTE was a very simple matter of setting the parameters and creating a .pdf. The idea that a Commissioner can't request financial information without a Commission vote, especially when there has only been one financial report for this year (and we're beginning budget discussions) is very disturbing, and I'd like a clarification of this determination.

2. (Clerk) On your request to get a listing of the e-mail addresses for staff that have an e-mail, the Manager requests that I review that with the Attorney. Based on his reply I will advise.

My thoughts - What exactly does the Attorney need to review? Are the Village email addresses for Village Staff to be kept a secret, even from sitting Commissioners? Why would the Manager want or need an Attorney review for this?

3. (Clerk on 7/30/10) The Manager met with Commissioner Childress, who was the former chair of the Code Review Board, and has advised that a red-line version does not exist. What they have is a document in progress of all the sections they have reviewed and discussed to date. When I stated below in my response that you should make your request to the Commission, it was not to ask for their permission to do so, but to have a discussion at the time on this subject.

My thoughts - on 7/29/10 I emailed the Clerk and the Manager with the fact that the red-line version was once on the website in 2008. Therefore, the Manager should have been aware of the red-line document, instead of advising that one did not exist.

4. (Clerk) Commissioner Anderson had a question on the salary listing which is noted below (*We have NEVER had a break out of proposed salaries - especially if those salaries (Public Works, Police, Manager) are subject to negotiations. Even if you break out only those NOT subject to negotiations people can do the math and see what's left. It puts us in a bad position. I request that you not put out a salary breakdown.*).

I checked with Attorney Hearn and it is preferred that information be provided after negotiations are completed, or are provided at the time the executive sessions are conducted regarding the union negotiations.

My thoughts - Even though we actually have done this for the last 3 years, this is not what you told me you told the Manager, instead you stated that you told her that salary information is public record, and there's no reason not to send to the Commission.

5. (Manager) my numerous requests to meet and or speak to Vice Mayor Cooper have been ignored

My thoughts - based on my personal experience, there have been about a half dozen times when something that the Manager stated to me either by phone or in person was either later denied or misconstrued, and I have therefore also done my best to communicate only by email. The fact that the Manager stated this to the entire Commission gives a false impression of why Cooper refused to meet by phone or in person as he is apparently being accused of something that he may or may not have said during one of those times. He clearly has continued to communicate via emails, which is sufficient to obtain information and to protect his reputation of being accused of saying something that he did not say.

6. (Manager) everything he (Cooper) communicates to us via email and now in person last Friday to our Clerk is of an accusatory nature, where he is either making threats and or continuing to be derogatory. Nothing that he is bringing to light is of substance on how we can better serve our residents and or deliver services to the Village of Biscayne Park

My thoughts - the accusation that "everything" Cooper communicates is accusatory is hyperbole and should be tempered by the facts of the Clerk-provided emails that show he has been trying to get public information for quite some time with no results. The accusation that there is no 'substance on how we can better serve our residents' is not for a Manager to decide, and is inflammatory with no basis. I can only say that if I were accused of such an unprovable thing, I would think about calling a higher authority also. Is it a threat to do so?

6. (Manager) This individual (Cooper) easily fabricates things about others without any thought to consequences

My thoughts - is this one of the 'accusations' that will be covered by this investigation? How exactly can a statement like that be proved? For that matter, what exactly are the accusations that are being investigated?

7. The Manager has stated that she has "always handled such requests" for information directly and not

via the Clerk , and that "Exempt employees on a regular basis stay beyond normal business hours to accommodate such requests."

My thoughts - I would like to know how many times she has personally handled requests such as this, and how many times exempt employees stayed beyond normal business hours, on a "regular basis". The impression is that this is not an unusual circumstance, and I'd like to know if it is or is not. Furthermore, I'd like to know if there is any written policy that any Commissioner could possibly be aware of.

I have not yet been contacted by Mr. Soloff, but in light of my concerns, I hope you can forward this to him so that I can convey in person any additional details that I am aware of.

Sincerely,

Steve Bernard
305-588-6177

----- Forwarded Message -----

From: Steve Bernard <steve_g_bernard@yahoo.com>

To: attyhearn@aol.com

Sent: Mon, August 2, 2010 12:33:17 PM

Subject: Charter 4.02

John,

The way I read it, Ana's email of 7/30 left out some important portions of what Bryan had emailed, as well as important portions of the Charter.

She left out his question about WHEN she would be available. Bryan was asking in good faith about when a meeting could be set up, offering his availability, and setting the parameters for a public request:

"Can you please let me know times/days when you will be available, preferably in the late afternoon, to provide me unlimited access to all village files and records for a period of about 1 hour, for my personal research in the log cabin."

He goes on to discuss a list of necessary staff to accomodate his public records request - again, no orders given... just a request for information.

"Once you know the windows of possible service (days/times possible), please send me an email with a list, including the staff who will be present and that will allow me access to the files and/or information that I will request upon my arrival."

He follows it up with a request for which documents are not readily available - it would be stretch to say that he gave any orders to Staff without including the Manager, as any or all of this information is public record, and should not require Manager intervention to gather.

"If there are any files that are in storage, please let me know, based on the Village Documentation Retention Policy, what documents will be in storage, and hence difficult to access, based on:

A. Area/Subject (Finance, Personnel, etc.)

B. Associated moving time frame (e.g. 6 months, 1 year, 3 years, etc.) when they are moved from the log cabin (and hence no longer readily accessible for my research) to any storage facilities that the Village uses....and that would hinder my research."

There were a series of emails back and forth (following) between the Clerk and Cooper discussing locations and availability of records, as well as times and staff that would be available, and none of those emails showed any "orders given".

In short, Ana's backhanded accusation that Bryan gave any "orders directly to any such officer or employee, either publicly or privately" doesn't ring true, especially given that Ana left out the first portion of Section 4.02, "Except for the purpose of inquiries and investigations made in good faith,".

What is a request to meet with the Clerk for the purpose of a public records search, but an inquiry and investigation made in good faith? Is there any chance that requesting information about public documents and the means to search them can be construed as an 'Order'?

From the Charter:

4.02.(B)(2) Except for the purpose of inquiries and investigations made in good faith, the Commission and its members shall deal with Village officers and employees who are subordinate to the Manager solely through the Manager. Neither the Commission nor its members shall give orders directly to any such officer or employee, either publicly or privately.

A Commission ready to sanction an elected official for trying to get public information is a darn shame.

Steve

----- Forwarded Message -----

From: Ana M. Garcia <villagemanager@biscayneparkfl.gov>

To: bcooper@biscayneparkfl.gov

Cc: RMEYERS@miamidade.gov; villageclerk@biscayneparkfl.gov; attyhearn@aol.com

Sent: Fri, July 30, 2010 3:09:43 PM

Subject: RE: requesFrom

Vice Mayor Cooper,

bcc: Full Commission

Vice Mayor Cooper: I have attached the original email that you sent to the Clerk on June 18th when you first communicated your request and I quote you "to provide me with unlimited access to all village files and records for a period of 1 hour, for my personal research in the log cabin. I ask that you be present, as well as all staff who are related to any and all finance related procedures." In this original email, I the Manager am not copied. Per our Charter, it states that neither the Commission or its members shall give orders directly to any such officer or employee, either publicly or privately, who are subordinate to the Manager. That is the way that I have always handled such requests. We are and will continue to be very accommodating to all elected officials and residents provided that proper procedures are followed. To imply that I (your manager) am applying different rules of service to one Commissioner and a different set of rules to another is simply not an accurate statement.

If you would provide us with some general description of the financial information you are requesting, we would know whether it would require the Finance Director (exempt), or the Finance Clerk (non-exempt) and/or the Manager to work on such request, meet with you and satisfy your request. Exempt employees on a regular basis stay beyond normal business hours to accommodate such requests. Thank you,

Respectfully,
Ana M. Garcia
Village Manager

From: Bryan Cooper [<mailto:bryancooper7@yahoo.com>]
Sent: Friday, July 30, 2010 8:25 AM
To: villageclerk@biscayneparkfl.gov; attyhearn@aol.com; bcooper@biscayneparkfl.gov
Cc: RMEYERS@miamidade.gov; villagemanager@biscayneparkfl.gov
Subject: Re: request

I need clear direction as to the hours of the day in which a Commissioner can get information on Finance.

I also hereby ask for a copy of the policy, if there is one, that shows that the Manager is not arbitrarily applying rules or restrictions of service to one Commissioner and different rules to another.

Bryan Cooper

From: village clerk <villageclerk@biscayneparkfl.gov>
To: attyhearn@aol.com; bcooper@biscayneparkfl.gov
Cc: RMEYERS@miamidade.gov; villagemanager@biscayneparkfl.gov
Sent: Thu, July 29, 2010 12:12:44 PM
Subject: RE: request

John, thank you for your e-mail response.

I know fully well that Vice Mayor has the right to receive public records. Last Friday when he was here I asked him to provide a list of what he needed so that we could start working on it.

Thanks again.

Maria C. Camara, Village Clerk
Village of Biscayne Park
640 NE 114th Street
Biscayne Park, FL 33161
Tel: 305 899 8000, Ext. 201
email: villageclerk@biscayneparkfl.gov

From: attyhearn@aol.com [<mailto:attyhearn@aol.com>]
Sent: Thursday, July 29, 2010 9:50 AM
To: bryancooper7@yahoo.com
Cc: RMEYERS@miamidade.gov; villagemanager@biscayneparkfl.gov; villageclerk@biscayneparkfl.gov; vobparchives@biscayneparkfl.gov
Subject: Re: request

Bryan: To be clear, you have an absolute right to receive public records. You also do not have to put the request in writing or give advance notice - although that would obviously make it easier for staff to collect and provide those records. However, you do not have the right to require that the Finance Clerk, after her work hours, sit with you and immediately retrieve records - especially when the Manager informed me that this would disrupt the running of Village business. The Clerk has been fully informed that you are entitled to all public records. At some point, you will need to ask for the records you are looking for. I am traveling on a business trip and will be returning over the weekend. I will respond to your other emails as necessary and appropriate, or they can be addressed at Commission meetings.

-----Original Message-----

From: Bryan Cooper <bryancooper7@yahoo.com>
To: Bryan Cooper <bryancooper7@yahoo.com>; Rmeyers@miamidade.gov;
villageclerk@biscayneparkfl.gov; bcooper@biscayneparkfl.gov
Cc: agarcia@biscayneparkfl.gov; attyhearn@aol.com
Sent: Wed, Jul 28, 2010 9:18 pm
Subject: Re: request
Ms. Camara:

You can send the below to the entire Commission, regarding my opening of communications with the M-D Ethics Board.

More emails will be coming.

Thanks.

Bryan

From: Bryan Cooper <bryancooper7@yahoo.com>
To: Rmeyers@miamidade.gov; villageclerk@biscayneparkfl.gov; bcooper@biscayneparkfl.gov
Cc: agarcia@biscayneparkfl.gov; attyhearn@aol.com
Sent: Wed, July 28, 2010 10:14:34 PM
Subject: Re: request
Robert Meyers, fyi:

John Hearn advised me by phone that I had the right to schedule a meeting with Village staff and make a request for information at the point of meeting, and that I did not need to give details of my request in advance.

Below, in #6, our Village staff now state that John Hearn has (after my conversation with him) advised them in direct contradiction to his advice to me. And that Commission approval is necessary.

In our phone conversation, he mentioned nothing to me about needing Commission approval for my longstanding request to access of government records under Sunshine Law in the HTE system; and in fact he stated clearly to me that it was my right to not reveal to staff my request, until the point it might be accessed when I was present, given my concerns expressed to him that the information, given the sensitivity of it, might never see the light of day otherwise.

Please note there have been a number of canceled meetings and delays to my request for a meeting with staff to get a report from the HTE system; and which appear questionable as to the reasoning. Moreover, there have been statements from the Clerk that she would give me access, but preferred that they know days in advance what I was looking for. So, numerous delays, and at the same time their wanting to know what I'm looking for in advance of my picking up the information.

I have been advised by several financial staff that running reports is very easy in the HTE system; why the roadblock now? Why now saying Commission approval is necessary for my requests.

Given the precarious nature of our records retention system, and the recent statements from Village staff that our email computer systems appear to have no integrity for assuring retention of data, I am concerned, as you might understand, on numerous fronts. I have also been advised by way of documents that the HTE system is planned to be discontinued, by recommendation of the Manager.

Please see below, and let me know if you believe that this is aligned with intent of Sunshine Law. Also, in respect to #2 below.

Thanks.

Bryan Cooper

From: village clerk <villageclerk@biscayneparkfl.gov>

To: bcooper@biscayneparkfl.gov

Cc: agarcia@biscayneparkfl.gov; attyhearn@aol.com

Sent: Wed, July 28, 2010 8:01:48 PM

Subject: FW: request

Vice Mayor, since I'm going to be out of the office tomorrow (Thursday, 7/29), I wanted to let you know the following before Friday:

1. On Tuesday, 8/3, I will provide you copies of the minutes for the Code Review Board.
2. I do not have the red-lined version of the Code based on the changes agreed on by the Code Review Board. You will need to make that request at the Commission Meeting.
3. The copy of the Personnel Policy & Procedures that were adopted in April 2009 were provided to you last Friday.
4. The link to the Florida statutes on records retention is:
http://dils.dos.state.fl.us/recordsmgmt/gen_records_schedules.cfm; or you can search: State of Florida General Records Schedule GS1-SL
5. As I mentioned last Friday, there are currently no job descriptions.
6. In regards to your request to sit with the Finance Clerk on Friday afternoon and have her run reports from the HTE Accounting system, you will need to make that request before the Commission. The Manager and I consulted with Attorney Hearn and this request does not fall under the normal guidelines of a public records request and will need to be discussed by the Commission.
7. On your request to get a listing of the e-mail addresses for staff that have an e-mail, the Manager requests that I review that with the Attorney. Based on his reply I will advise.

Thank you.

Maria C. Camara, Village Clerk

Village of Biscayne Park

640 NE 114th Street

Biscayne Park, FL 33161

Tel: 305 899 8000, Ext. 201

email: villageclerk@biscayneparkfl.gov

From: bryan cooper [<mailto:bcooper839@yahoo.com>]

Sent: Monday, July 26, 2010 7:59 AM

To: VillageClerk@BiscayneParkFl.gov

Cc: attyhearn@aol.com; vobparchives@biscayneparkfl.gov

Subject: request

Maria:

Can you please bring to the Tuesday meeting a copy of:

- 1) Minutes for Code Review Committee in binder
- 2) All red-lined copy that is completed, to date, as you said is being performed by Gage H & Commissioner Childress together.

Also, if there is electronic copy of the working red-lined version, please email to me early this week; thanks.

I know you will understand my concern when the Mayor made statements that she wanted to keep this from the public at this point and "not scare them"...and by now you probably understand my opposing view of keeping the residents fully informed while supporting full transparency.

Since I've been wanting to get this for some time now, starting with our conversations and requests months ago, I hope that there will not be any more delay on both of these related documents.

Bryan

From: Bryan Cooper [<mailto:bryancooper7@yahoo.com>]

Sent: Friday, June 18, 2010 7:11 PM

To: villageclerk@biscayneparkfl.gov

Subject: Sunshine & Commissioner research request

Maria:

Can you please let me know times/days when you will be available, preferably in the late afternoon, to provide me unlimited access to all village files and records for a period of about 1 hour, for my personal research in the log cabin. I ask that you be present, as well as all staff who are related to any and all finance related procedures.

Once you know the windows of possible service (days/times possible), please send me an email with a list, including the staff who will be present and that will allow me access to the files and/or information that I will request upon my arrival.

If there are any files that are in storage, please let me know, based on the Village Documentation Retention Policy, what documents will be in storage, and hence difficult to access, based on:

A. Area/Subject (Finance, Personnel, etc.)

B. Associated moving time frame (e.g. 6 months, 1 year, 3 years, etc.) when they are moved from the log cabin (and hence no longer readily accessible for my research) to any storage facilities that the Village uses....and that would hinder my research.

I look forward to hearing from you.

Best regards,

Bryan

No virus found in this incoming message.

Checked by AVG - www.avg.com

Version: 9.0.851 / Virus Database: 271.1.1/3036 - Release Date: 07/29/10 14:34:00

----- Forwarded Message -----

From: Steve Bernard <steve_g_bernard@yahoo.com>

To: attyhearn@aol.com

Sent: Mon, August 2, 2010 12:33:17 PM

Subject: Charter 4.02

John,

The way I read it, Ana's email of 7/30 left out some important portions of what Bryan had emailed, as well as important portions of the Charter.

She left out his question about WHEN she would be available. Bryan was asking in good faith about when a meeting could be set up, offering his availability, and setting the parameters for a public request:

"Can you please let me know times/days when you will be available, preferably in the late afternoon, to provide me unlimited access to all village files and records for a period of about 1 hour, for my personal research in the log cabin."

He goes on to discuss a list of necessary staff to accomodate his public records request - again, no orders given... just a request for information.

"Once you know the windows of possible service (days/times possible), please send me an email with a list, including the staff who will be present and that will allow me access to the files and/or information that I will request upon my arrival."

He follows it up with a request for which documents are not readily available - it would be stretch to say that he gave any orders to Staff without including the Manager, as any or all of this information is public record, and should not require Manager intervention to gather.

"If there are any files that are in storage, please let me know, based on the Village Documentation Retention Policy, what documents will be in storage, and hence difficult to access, based on:

A. Area/Subject (Finance, Personnel, etc.)

B. Associated moving time frame (e.g. 6 months, 1 year, 3 years, etc.) when they are moved from the log cabin (and hence no longer readily accessible for my research) to any storage facilities that the Village uses....and that would hinder my research."

There were a series of emails back and forth (following) between the Clerk and Cooper discussing locations and availability of records, as well as times and staff that would be available, and none of those emails showed any "orders given".

In short, Ana's backhanded accusation that Bryan gave any "orders directly to any such officer or employee, either publicly or privately" doesn't ring true, especially given that Ana left out the first portion of Section 4.02, "Except for the purpose of inquiries and investigations made in good faith,".

What is a request to meet with the Clerk for the purpose of a public records search, but an inquiry and investigation made in good faith? Is there any chance that requesting information about public documents and the means to search them can be construed as an 'Order'?

From the Charter:

4.02.(B)(2) Except for the purpose of inquiries and investigations made in good faith, the Commission and its members shall deal with Village officers and employees who are subordinate to the Manager solely through the Manager. Neither the Commission nor its members shall give orders directly to any such officer or employee, either publicly or privately.

A Commission ready to sanction an elected official for trying to get public information is a darn shame.

Steve

----- Forwarded Message -----

From: village clerk <villageclerk@biscayneparkfl.gov>
To: bcooper@biscayneparkfl.gov
Cc: agarcia@biscayneparkfl.gov; attyhearn@aol.com
Sent: Fri, July 9, 2010 2:27:47 PM
Subject: RE: Sunshine & Commissioner research request

Vice Mayor and Full Commission: Please see below

Maria C. Camara, Village Clerk
Village of Biscayne Park
640 NE 114th Street
Biscayne Park, FL 33161
Tel: 305 899 8000, Ext. 201
email: villageclerk@biscayneparkfl.gov

From: Bryan Cooper [<mailto:bryancooper7@yahoo.com>]
Sent: Thursday, July 08, 2010 8:44 PM
To: villageclerk@biscayneparkfl.gov; bcooper@biscayneparkfl.gov
Cc: agarcia@biscayneparkfl.gov; attyhearn@aol.com; vobparchives@biscayneparkfl.gov
Subject: Re: Sunshine & Commissioner research request

Thank you Ms. Camara:

Has anything been transferred to North Miami in the time frame I refer to? As noted below, no, nothing has been transferred to the North Miami location. What is the charge for retrieval from Iron Mountain? The only costs that I have are what was invoiced late last year when the Chief retrieved some boxes. I have sent a request to the rep at Iron Mountain to get updated retrieval costs and I will provide as soon as I get that information.

I would imagine John Hearn has approved your cc'ing the entire Commission on this, and if so I'd like to hear comment from him, and he can include the entire Commission on his ruling.

Also, in his broadcast ruling, I would ask John Hearn if I can bcc all of my Sunshine communications with Village staff with full Commission, if I choose, and residents and Village staff who, I believe, have a full right to Sunshine under the Laws of Florida as I understand it, as long as no other Commissioner replies and I do not engage in "conversation" with staff who might want unilateral documentation, but who might live in fear of requesting it formally.

It is my understanding this would be legal, but I want his assurance or iterated objection in writing.

Last, I would ask Mr. Hearn to specifically comment on timely response to Sunshine Requests, and if we need a policy by which service is rendered in a way that never appears as if delay is the intent.

I hope that the Village begins to take more seriously the laws of the State of Florida, than I have observed done in the past.

Please advise.

BC

From: village clerk <villageclerk@biscayneparkfl.gov>
To: bcooper@biscayneparkfl.gov
Cc: agarcia@biscayneparkfl.gov; attyhearn@aol.com
Sent: Thu, July 8, 2010 6:16:22 PM
Subject: RE: Sunshine & Commissioner research request

Good afternoon Vice Mayor and Full Commission;

Please see below my response:

Maria C. Camara, Village Clerk
Village of Biscayne Park
640 NE 114th Street
Biscayne Park, FL 33161
Tel: 305 899 8000, Ext. 201
email: villageclerk@biscayneparkfl.gov

From: Bryan Cooper [<mailto:bryancooper7@yahoo.com>]
Sent: Thursday, July 08, 2010 7:38 AM
To: villageclerk@biscayneparkfl.gov
Cc: agarcia@biscayneparkfl.gov; attyhearn@aol.com; vobparchives@biscayneparkfl.gov
Subject: Re: Sunshine & Commissioner research request

Ms. Camara:

I had arranged to have this Friday off, and am uncertain as to the next week. So, I'll just say it is too bad in terms of appearance.

It's pretty clear that the Mayor, from what I've been told, takes a day off every week and gets lots of service at the log cabin in her capacity, but it seems that I am having problems, again, getting timely access to information under the laws of the State of Florida. I guess we will now reschedule and delay.

Perhaps then you can start by sending me a list of material, (receipts from iron mountain, etc.), if any, for material that has been transferred to the storage sites in question in the past 6 months, **listed by month**. This should be easily found in one file, right? I have been here since mid January and nothing has been transferred over to Iron Mountain. Please refer to the listing I provided to you and on the column titled 'Rcpt Date' you can see the date that a box was received at Iron Mountain. The same applies to the storage facility in North Miami, nothing has been added.

I'll say that my request has been standing for some time now to be able to meet with Village staff on this, and I hope that John has explained to Village staff our Charter form of government and how inequities in service between Commissioners / Mayor would not be well received, I would think, by external reviewers, not to mention residents.

Last, have you been advised by Ms. Garcia to wait and delay until after next week's meeting? No

Bryan

From: village clerk <villageclerk@biscayneparkfl.gov>
To: villageclerk@biscayneparkfl.gov
Cc: agarcia@biscayneparkfl.gov
Sent: Tue, July 6, 2010 11:37:00 AM
Subject: FW: Sunshine & Commissioner research request

Commissioner Cooper and Full Commission:

In response to your question:

1. Iron Mountain is an outside document storage facility in Sunrise . Only the Manager, the Finance Director, the Chief and the Clerk have authorization to request information from Iron Mountain on our account, and to retrieve records from storage. To retrieve records you must request the entire box to be pulled which is done by Iron Mountain and delivered to us. There is a fee for retrieval, delivery and to put back into storage. Attached is a listing of the records in storage at that location.
2. North Miami storage facility is located on NE 16th Avenue . Only the Manager, the Finance Director, the Chief and the Clerk have access to the storage facility. There is no cost for retrieval, only the labor time to go to the facility and back. The inventory for this location has not yet been completed.
3. Village Hall. There are records throughout the offices. There are several that are in a loft that have yet to be listed and inventoried which requires assistance from Public Works staff. Attached is a partial listing of the records in Village Hall.

With having to prepare for next week's Commission meeting and in order to meet our budget deadlines, I will have to change my availability to Thursday or Friday of next week, July 15th or 16th between 4:30 and 5:30PM.

Thank you.
Maria Camara
Village Clerk

From: Bryan Cooper [<mailto:bryancooper7@yahoo.com>]
Sent: Thursday, July 01, 2010 12:19 AM
To: VOBP Archives; bcooper@biscayneparkfl.gov

Cc: agarcia@biscayneparkfl.gov; attyhearn@aol.com
Subject: Re: FW: Sunshine & Commissioner research request
Maria:

Can you please provide the locations of the outside storage locations, and who has access to them and at what hours? I would like the inventories in advance of making my appointment.
Thank you.

Bryan

From: VOBP Archives <vobparchives@biscayneparkfl.gov>
To: bcooper@biscayneparkfl.gov
Cc: agarcia@biscayneparkfl.gov; attyhearn@aol.com
Sent: Wed, June 30, 2010 6:58:03 PM
Subject: FW: FW: Sunshine & Commissioner research request
Commissioner Cooper, as per your original request, I would be available next Thursday or Friday (July 8th or 9th) between 4:30PM-5:30PM. By then I should have the complete inventory from the outside storage locations. You will be meeting with me and Karina Moreta, Finance Clerk.

Prior to then it would be helpful to know what specific records you are requesting so I can verify their availability prior to your visit.

Thank you.

Maria C. Camara, Village Clerk
Village of Biscayne Park
640 NE 114th Street
Biscayne Park, FL 33161
Tel: 305 899 8000, Ext. 201
email: villageclerk@biscayneparkfl.gov

From: Maria Camara [<mailto:aramacservices@gmail.com>]
Sent: Wednesday, June 23, 2010 3:39 PM
To: bcooper@biscayneparkfl.gov; villageclerk@biscayneparkfl.gov
Subject: Fwd: FW: Sunshine & Commissioner research request
Hi Commissioner Cooper. Yes, there are records stored off site and there are records stored at Village Hall. There are two locations offsite, one is a regular storage facility which we are in the process of cleaning out and closing, and the second is a documents storage location.

The cleaning out/closing of the smaller storage facility is part of a bigger project of doing a complete inventory of all records and to create a proper inventory and updating it with the time frame of required retention based on Florida statutes. At this point I am not able to provide you with what is at Village Hall and what is offsite, but when we schedule the date for your visit, I will have that information.

As I mentioned below, I will provide you with the dates/times of when both Michael and I will be available to meet with you, early next week.

Thank you.

Maria Camara
Village Clerk
From: Bryan Cooper [mailto:bryancooper7@yahoo.com]
Sent: Wednesday, June 23, 2010 7:33 AM
To: Maria Camara
Subject: unanswered question

Maria:

Can you also respond to my question (in my other mail) about items that might be in storage, and if you have a document retention policy that defines what is in storage, and what is not.

Also, where is storage? In the cabin? Off-site?

BC

----- Forwarded message -----

From: Maria Camara <aramacservices@gmail.com>
Date: Mon, Jun 21, 2010 at 2:44 PM
Subject: Re: FW: Sunshine & Commissioner research request
To: bcooper@biscayneparkfl.gov, villageclerk@biscayneparkfl.gov

Hello Commissioner Cooper. I am out of the office this week and will return on Friday. I will review your request with our Finance Director, Michael, and provide to you next week the available days/times for the both of us. Thank you.

Maria Camara
Village Clerk

On Sat, Jun 19, 2010 at 8:23 PM, village clerk <villageclerk@biscayneparkfl.gov> wrote:

From: Bryan Cooper [mailto:bryancooper7@yahoo.com]
Sent: Friday, June 18, 2010 7:11 PM
To: villageclerk@biscayneparkfl.gov
Subject: Sunshine & Commissioner research request
Maria:

Can you please let me know times/days when you will be available, preferably in the late afternoon, to provide me unlimited access to all village files and records for a period of about 1 hour, for my personal research in the log cabin. I ask that you be present, as well as all staff who are related to any and all finance related procedures.

Once you know the windows of possible service (days/times possible), please send me an email with a list, including the staff who will be present and that will allow me access to the files and/or information that I will request upon my arrival.

If there are any files that are in storage, please let me know, based on the Village Documentation Retention Policy, what documents will be in storage, and hence difficult to access, based on:

A. Area/Subject (Finance, Personnel, etc.)

B. Associated moving time frame (e.g. 6 months, 1 year, 3 years, etc.) when they are moved from the log cabin (and hence no longer readily accessible for my research) to any storage facilities that the Village uses....and that would hinder my research.

I look forward to hearing from you.

Best regards,

Bryan

Maria C. Camara, Village Clerk
Village of Biscayne Park
640 NE 114th Street
Biscayne Park, FL 33161
Tel: 305 899 8000, Ext. 201
email: villageclerk@biscayneparkfl.gov

**ADDITIONAL E-MAILS
REFERENCED IN
INVESTIGATIVE REPORT**

From: attyhearn@aol.com
Sent: Wednesday, August 11, 2010 12:08 PM
To: vobparchives@biscayneparkfl.gov
Subject: Engagement of Independent Counsel

This email has been sent to all Commissioners and the Manager to inform that I have been able to engage Mr. Robert Soloff, Esq. as independent counsel to investigate the matter brought to the Commissioner's attention at the last Commission meeting. Consistent with Commission direction, Mr. Soloff will investigate the allegations contained in Ms. Garcia's email and interview and take whatever other investigatory actions he deems appropriate. Upon his completion of the investigation, Mr. Soloff will provide the results of his investigation to the Commission and make any recommendations he deems appropriate. Mr. Soloff has been informed, and has agreed, to a cap of \$5,000.00 in conducting his investigation. Mr. Soloff will contact any and all witnesses as he deems appropriate. Individuals should not contact Mr. Soloff directly. Thanks.

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Version: 8.5.406 / Virus Database: 271.1.1/3061 - Release Date: 08/10/10 18:34:00

From: attyhearn@aol.com
Sent: Saturday, August 28, 2010 1:40 PM
To: bryancooper7@yahoo.com
Subject: Re: manager phone

Hey Bryan, The investigation and the Manager's evaluation are separate matters. The Commission can take whatever action it deems appropriate based on the findings of the investigation. The contract requires the investigation to be done by October and per my previous e-mail to the Commission have it be reflected in some type of written form. As to Personnel Rules and Regulations, the manager is not specifically excluded under 2.5. Obviously, as she is the individual to enforce the rules on the rest of employees she has a larger role as Manager. The entire manager's contract is relevant to your review. Finally, the investigation is being handled by a very experienced and able attorney. He will work with you and assure that you have been given a full opportunity to present and provide all needed and relevant information. I am not aware of any "chargeable offense" related to the investigation. Thanks.

-----Original Message-----

From: Bryan Cooper <bryancooper7@yahoo.com>
To: attyhearn@aol.com
Sent: Fri, Aug 27, 2010 7:50 pm
Subject: Re: manager phone

John:

I received but a short response from the attorney you hired after my email below; but most of what I asked from you remains unanswered. I will work to set up a meeting with the independent attorney, but need your opinion in writing for my evaluation of the Manager.

Bryan

From: Bryan Cooper <bryancooper7@yahoo.com>
To: attyhearn@aol.com
Sent: Thu, August 26, 2010 7:59:25 AM
Subject: Re: manager phone

Thank you John:

I have a few additional questions/comments:

1. It seems we are moving forward with a discussion/evaluation of the manager's performance in an special meeting, and without having resolved the issues that the other attorney is looking into. Have you counseled the manager and the rest of the Commission that this is ok? To me it points to many problems and conflicts, but I'd like to see if you have any reservations about this. (Does this not seem like the manager rushing this before all evidence is discovered?)
2. p. 7 of the personnel rules and regulations, 2.5 is something you might read to tell me if the manager is included, as we discussed by phone. Also, the manager is mentioned throughout as to performance expectations, it seems. I'd like your view on this. There are strictures against improper use of email, which is but one of the questions for the attorney along with other administrative and/or employee expectations that seem to me, clearly unfulfilled.
3. Can you send me email with comments -- including relevant portions of the managers' contract - that pertains to her performance linked to these village personnel regulations, for which she appears responsible?
4. Per our various conversations in the past, I feel I will not be able to meet with the manager given her past behavior; and unless I have an independent witness present from now on. And I will only meet with her on substantive issues, because prior times she has wanted to meet have been, honestly, petty items that did not require a meeting but clearly seemed staged just to meet. (And highly unproductive to my or anyone's work and time).

5. Last questions: exactly what, under State Law, is being investigated by the attorney that, in your mind, would be a chargeable offense?

And what is the related statute? And, what is the expected time-frame on this until completion?

What stage is he at now? (How much time remaining?)

How much time can I spend with him (and how much time is he spending with others, and will he provide a list of those who have been interviewed)?

Bryan Cooper

Bryan Cooper

From: "attyhearn@aol.com" <attyhearn@aol.com>
To: bryancooper7@yahoo.com
Sent: Mon, August 23, 2010 1:33:32 PM
Subject: Re: manager phone

Hey Bryan, The contract expressly provides that "At the Village Manager's option, the Village will provide a cell phone with unlimited minutes and internet access or Village Manager may use her own cell phone and be reimbursed the reasonable actual cost of the cell phone/internet access, as approved by the Commission." The question of whether the cost can be reduced is really for the Manager to discuss with you. The Manager does not retain any money for any difference in price. Thanks.

-----Original Message-----

From: Bryan Cooper <bryancooper7@yahoo.com>
To: attyhearn@aol.com
Sent: Fri, Aug 20, 2010 8:33 am
Subject: Re: manager phone

Mr. Hearn:

It appears as if the excessive amount in question is an "entitlement" and not a cost that could be reduced by her diligence to find a better contract?

Does she retain the difference?

BC

From: Ana M. Garcia <villagemanager@biscayneparkfl.gov>
To: Rox Ross <rox@roxross.com>; Bryan Cooper <bryancooper7@yahoo.com>; Steve Bernard <steve@stevebernardarchitect.com>; Commissioner Bob Anderson <banderson@biscayneparkfl.gov>; Al Childress <albertchildress@yahoo.com>
Cc: villageclerk@biscayneparkfl.gov; financedirector@biscayneparkfl.gov
Sent: Tue, August 17, 2010 5:16:25 PM
Subject: manager phone

Good afternoon,

Please note after further assessment and clarification from John Hearn, per my contract the cost of my phone must remain as is, in the line item of executive administration. Thank you.

Ana M. Garcia, CPRP
Village Manager
640 NE 114th Street
Biscayne Park, FL 33161
Ph. 305.899.8000 ext. 229
Fax. 305.891.7241
agarcia@biscayneparkfl.gov

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Version: 8.5.406 / Virus Database: 271.1.1/3098 - Release Date: 08/27/10 18:34:00

-----Original Message-----

From: Bryan Cooper <bryancooper7@yahoo.com>

To: attyhearn@aol.com

Sent: Thu, Aug 26, 2010 7:59 am

Subject: Re: manager phone

Thank you John:

I have a few additional questions/comments:

1. It seems we are moving forward with a discussion/evaluation of the manager's performance in an special meeting, and without having resolved the issues that the other attorney is looking into. Have you counseled the manager and the rest of the Commission that this is ok? To me it points to many problems and conflicts, but I'd like to see if you have any reservations about this. (Does this not seem like the manager rushing this before all evidence is discovered?)
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Bryan Cooper

Bryan Cooper

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Does she retain the difference?

BC

From: Ana M. Garcia <villagemanager@biscayneparkfl.gov>

To: Rox Ross <rox@roxross.com>; Bryan Cooper <bryancooper7@yahoo.com>; Steve Bernard <steve@stevebernardarchitect.com>; Commissioner Bob Anderson <banderson@biscayneparkfl.gov>; Al Childress <albertchildress@yahoo.com>

Cc: villageclerk@biscayneparkfl.gov; financedirector@biscayneparkfl.gov

Sent: Tue, August 17, 2010 5:16:25 PM

Subject: manager phone

Good afternoon,

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Ana M. Garcia, CPRP

Village Manager

640 NE 114th Street

Biscayne Park, FL 33161

Ph. 305.899.8000 ext. 229

Fax. 305.891.7241

agarcia@biscayneparkfl.gov

From: attyhearn@aol.com
Sent: Thursday, August 12, 2010 8:49 AM
To: bryancooper7@yahoo.com
Subject: Re: Engagement of Independent Counsel

Consistent with our discussion, the complaint originated from Ms. Garcia. The investigator has your e-mail response as well. The investigation must necessarily start from the original e-mail. He is not limited to only the wrongful allegations against you as he will be able to follow up on whatever evidence /related allegations are relevant. For example if you inform him that the former finance director has relevant information, he will follow up with her as well. Thanks.

-----Original Message-----

From: Bryan Cooper <bryancooper7@yahoo.com>
To: attyhearn@aol.com
Sent: Thu, Aug 12, 2010 7:23 am
Subject: Re: Engagement of Independent Counsel

Mr. Hearn:

I would like clarification in your email below. You state that this attorney will investigate Ms. Garcia's allegations in her email. Are you referring to ONLY the wrongful allegations she made against me? Please inform why your language below does not state that the attorney will investigate the allegations concerning the Village manager and the larger issues that I have brought forth to you.

If it is your intent that this be a one-sided investigation, and that you are taking direction from the majority of the Commission as to a singular direction of this investigation, I would like to be advised in advance.

Please call me to explain.

Bryan Cooper

From: "attyhearn@aol.com" <attyhearn@aol.com>
To: vobparchives@biscayneparkfl.gov
Sent: Wed, August 11, 2010 12:08:10 PM
Subject: Engagement of Independent Counsel

This email has been sent to all Commissioners and the Manager to inform that I have been able to engage Mr. Robert Soloff, Esq. as independent counsel to investigate the matter brought to the Commissioner's attention at the last Commission meeting. Consistent with Commission direction, Mr. Soloff will investigate the allegations contained in Ms. Garcia's email and interview and take whatever other investigatory actions he deems appropriate. Upon his completion of the investigation, Mr. Soloff will provide the results of his investigation to the Commission and make any recommendations he deems appropriate. Mr. Soloff has been informed, and has agreed, to a cap of \$5,000.00 in conducting his investigation. Mr. Soloff will contact any and all witnesses as he deems appropriate. Individuals should not contact Mr. Soloff directly. Thanks.

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Version: 8.5.406 / Virus Database: 271.1.1/3061 - Release Date: 08/11/10 06:34:00

-----Original Message-----

From: Bryan Cooper <bryancooper7@yahoo.com>

To: attyhearn@aol.com

Sent: Sun, Aug 29, 2010 9:22 am

Subject: Re: manager phone

John:

After my advising you of many problematic and related alleged occurrences....I

would think it would be clear that the Manager's fabricated allegations are a direct result of my trying to use Sunshine Law (and her documented resistance and attempts to use Charter and Commission rule and arbitrary use of rules regarding staff work hours to trump State Law) for access to information that could substantiate the claims of ethical and procedural problems with her work.

My efforts have been in good faith to look out for Village interest and higher

laws. I have tried under powers provided me by the State to handle the situation

despite your saying staff could not be interviewed without the the fear of having the allegedly implicated person in the same room at time of interview and

despite statements public record in emails have probably dissapeared.

And there is more research to do.

Looking at ALL emails shows that the larger issue is indeed the evaluation of the Manager.

In short your response that the small smokescreen actions against me are seperate might necessitate bringing forth the larger allegations against the manager so all see the real picture.

BC

On Sat Aug 28th, 2010 1:39 PM EDT attyhearn@aol.com wrote:

>

>Hey Bryan, The investigation and the Manager's evaluation are separate matters. The Commission can take whatever action it deems appropriate based on

the findings of the investigation. The contract requires the investigation to

be done by October and per my previous e-mail to the Commission have it be reflected in some type of written form. As to Personnel Rules and Regulations,

the manager is not specifically excluded under 2:5 Obviously, as she is the individual to enforce the rules on the rest of employees she has a larger role

as Manager. The entire manager's contract is relevant to your review.

Finally,

the investigation is being handled by a very experienced and able attorney.

He

will work with you and assure that you have been given a full opportunity to present and provide all needed and relevant information. I am not aware of any

"chargeable offense" related to the investigation. Thanks.

>

>

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>

>-----Original Message-----

>From: Bryan Cooper <bryancooper7@yahoo.com>

>To: attyhearn@aol.com

>Sent: Fri, Aug 27, 2010 7:50 pm

>Subject: Re: manager phone

>

>

>

>John:

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>I received but a short response from the attorney you hired after my email below; but most of what I asked from you remains unanswered. I will work to set

up a meeting with the independent attorney, but need your opinion in writing for

my evaluation of the Manager.

>

>Bryan

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>From: Bryan Cooper <bryancooper7@yahoo.com>

>To: attyhearn@aol.com

>Sent: Thu, August 26, 2010 7:59:25 AM

>Subject: Re: manager phone

>

>

>Thank you John:

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>I have a few additional questions/comments:

>

>1. It seems we are moving forward with a discussion/evaluation of the manager's

performance in an special meeting, and without having resolved the issues that

the other attorney is looking into. Have you counseled the manager and the rest

of the Commission that this is ok? To me it points to many problems and conflicts, but I'd like to see if you have any reservations about this. (Does this not seem like the manager rushing this before all evidence is discovered?)

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>3. Can you send me email with comments -- including relevant portions of the

managers' contract - that pertains to her performance linked to these village personnel regulations, for which she appears responsible?

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>And what is the related statute? And, what is the expected time-frame on this until completion?

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>How much time can I spend with him (and how much time is he spending with others, and will he provide a list of those who have been interviewed)?

>

>Bryan Cooper

>

>

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>Bryan Cooper

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>From: "attyhearn@aol.com" <attyhearn@aol.com>

>To: bryancooper7@yahoo.com

>Sent: Mon, August 23, 2010 1:33:32 PM

>Subject: Re: manager phone

>

>Hey Bryan, The contract expressly provides that "At the Village Manager's option, the Village will provide a cell phone with unlimited minutes and internet access or Village Manager may use her own cell phone and be reimbursed

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>

>

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>-----Original Message-----

>From: Bryan Cooper <bryancooper7@yahoo.com>

>To: attyhearn@aol.com

>Sent: Fri, Aug 20, 2010 8:33 am

>Subject: Re: manager phone

>

-----Original Message-----

From: Bryan Cooper <bryancooper7@yahoo.com>

To: attyhearn@aol.com

Cc: vobparchives@biscayneparkfl.gov; villagemanager@biscayneparkfl.gov;
villageclerk@biscayneparkfl.gov

Sent: Mon, Aug 30, 2010 11:53 pm

Subject: DO NOT REPLY -- evaluation / allegations

Good evening John, and others:

(Commissioners cannot reply to this mail, or you would be violating Sunshine Law. It can be discussed tomorrow. However it is uncertain I will be able to attend tomorrow night's meeting on time, but I will try. Please find below allegations that all Commissioners must be aware of by now.)

Per the former staff member's email to the Village Manager and Commission in April, the below outstanding allegations acquired through first-hand accounts still need to be resolved.

I am pretty certain that you all have done your due diligence, as I have, and have come up with a comparable list and related information.

Clearly, we need to research more fully with the remaining Village staff, who have been named as witnesses to the allegations said to occur in Village Hall:

1. Allegedly questionable accounting practices, with lack of respect for the staff's professional experience.
2. Unprofessional and de-humanizing behavior toward and in front of staff.
3. Forcing other staff, who expressed discomfort with a certain memo process, to be involved in questionable documentation used against a Village official.
4. Questionable record keeping regarding time-payroll cards.
5. Wrongful treatment to conscientious staff who were trying to properly follow Village written procedures approved by the Commission.

I trust that the attorney we have hired will take information on these allegations as they are directly related to occurrences from before April to the present. Only then, I feel, will we be able to move forward for final discussion with the Manager, and in the context of contract discussion.

Bryan Cooper

p.s. The draft evaluation I've been working on is almost complete, yet I did not score it with points because it is unclear if others are using the Village form. I can edit, clean up and provide points, if necessary).

Ana M. Garcia

From: bryan cooper [bcooper839@yahoo.com]
Sent: Friday, October 30, 2009 3:39 PM
To: Ana Garcia; VillageClerk@BiscayneParkFl.gov; villagemanager@biscayneparkfl.gov
Cc: Steve Bernard
Subject: Follow up email: Savino Miller plans

Ms. Garcia:

Unfortunately, I have not heard back from you (or the Clerk) about the Savino Miller design and planned tree removal behind the sign and its supporting documentation. As a concerned Board Member, I will be contacting DERM to set up a meeting with Bill Graham and his supervisor to discuss a number of issues concerning what's been happening here in the village (as I've advised you of in our first meeting).

I will also speak with them about what is poised to happen -- e.g. removal of Mahogany in the median in front of village hall...and other targeted established trees, tapes/transcripts of our PP board chair's work toward removing 50% of more of tree canopy -- which you're also aware of.

However, I will wait until Monday in case I hear from you after all....as I'm trying to give you the benefit of the doubt that you are still actively working to do the right thing in terms of the past violations and bad practices.

After the failure to support engineering statements of Kimbly-Horn and even minimal best practices in face of the worst examples of partisan government and misinformation, you must understand where I'm coming from.

Bryan Cooper

Dear Village Manger & Clerk of Records, this is a follow up email to my civic, legal and ethical concerns email sent to the Commission and yourselves.

Besides letting citizens know if the Savino Miller sign designs include mention of the removal of the coconut palms that Mr. Keys stated are going to be removed (the mature trees in back of the sign)....

1) Do we know whether the landscaping was:

a) approved by the commission with the architectural plans? Brought before the Park & Parkways Board?

b) is being done by contractor or by the village staff? (I believe Mr. Keys said it would be done by village staff or volunteers).

c) If transplanted, is the village OR a contractor going to be responsible for the PROFESSIONAL removal of the coconut palms to make sure a nice rootball exists*

* (not a hack-job with a "back-hoe" as Mr. Keys envisioned recently, which would be similar to previously and illegally "yanked out of the ground" palms that were planted and quickly died?

2) When will and/or have we already:

8/9/2010

- a) Picked their placement elsewhere in our medians or parks to be enjoyed by residents?
- b) Thought about (and have even the removal of the palms been discussed publicly under Sunshine) to at least consider whether to keep the palms in their current location?
- 3) Last, I would like to call for placement on the agenda of the Parks and Parkways Board and final decision by the commission as a whole the following question:
Can these mature palms can be integrated into a beautiful landscape up-lighting of the palms trunks and branches at night along with the sign, since the electrical capacity is already in place?

Bryan Cooper
839 NE 115 Street

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Version: 9.0.851 / Virus Database: 271.1.1/3050 - Release Date: 08/05/10 02:35:00

Ana M. Garcia

From: bryan cooper [bcooper839@yahoo.com]
Sent: Thursday, December 17, 2009 6:21 PM
To: villagemanager@biscayneparkfl.gov
Subject: Thanks; some more thoughts

Ana:

I appreciate your and John's help to keep the avenues open. I'd like to hear more about the lighting idea.

1. Which town is getting lighting? 2. What is the total cost associated with the items you have added to the scope? This is important to know.

Also, I believe I saw something in Kim's draft minutes from the past Commission (Hornbuckle, Morris & Mallette, et al.) about "lighting", but I thought it was maybe an error...because don't remember it being discussed. I wondered --- was this something suggested by a past or present Commissioner? 3) Is this something that you believe we need and desire more than safer roadways for the residents?

If the answer is yes to "3", let's set up a phone call, as I've made contact with some expert testimony about guidelines we should be following; and I also can present you and John with some documentation I've been collecting revealing problems if we do NOT take steps toward making our roads safer very soon.

And, now that you have expanded our options by added scope to MDT, a final question: Will you at the next meeting support completing the entire scope/project, even if we need to find the money in the budget or dip into reserves?

Or are you presenting it as an either/or option? I'd appreciate your openness on this question in advance.

And, if it your desire to not use any Village funds, let me know more about your concern....as I think your support on the budget question will be important if we are truly going to build consensus and compromise in terms of the project that can buy into. If we can get something for everyone's constituents...and have a win-win....especially for the residents, then there is a chance to make a good start and build a team with this Commission.

And if not, division will only deepen I fear. But if you express strong leadership to find the money for all components, we'll be off to a great start to overcoming the past.

Let me know....

Bryan

From: Ana M. Garcia <villagemanager@biscayneparkfl.gov>
To: bryan cooper <bcooper839@yahoo.com>
Cc: attyhearn@aol.com
Sent: Thu, December 17, 2009 4:34:31 PM

Ana M. Garcia

From: attyhearn@aol.com
Sent: Thursday, December 17, 2009 8:05 AM
To: bcooper839@yahoo.com
Cc: villageclerk@biscayneparkfl.gov; villagemanager@biscayneparkfl.gov
Subject: Re: Concerns; problems....with tomorrow's rushed decision

Hey Bryan, You are basically correct regarding 1 way communication, although it is not best practice and Frank sometimes sent e-mails out that I recommended against. The e-mails that are informational and factual I have a greater comfort with. Dania beach and others have had issues with these type of e-mails and I do not consider it best practice. We can speak in detail and will when we have our ethics sunshine workshop. If you would like to transmit an e-mail to the rest of Commission it should go through myself and manager. The e-mail should stick to the factual summary of where we are etc. in the process. I know you have good information concerning that matter. The best solution of course is to preserve both alternatives and I believe Ana will be working on that today as they should not be able to change the rules she was provided midstream.

By this e-mail I am also asking clerk to check minutes to confirm Commission direction. Thanks.

-----Original Message-----

From: bryan cooper <bcooper839@yahoo.com>
To: attyhearn@aol.com
Sent: Thu, Dec 17, 2009 7:52 am
Subject: Re: Concerns; problems....with tomorrow's rushed decision

Thank you John for your quick response. I have a few more questions, and please forward to Ana as necessary:

1. If no straw vote is allowed, then it seems to me that what Ana is doing through informal communications is developing an majority opinion to help guide her actions. This to me does not seem to be government in the Sunshine, if the public is not made formally known who suggested what to her and how for such a decision of public impact, especially when this was supposed to be decided at the January 12 meeting and/or future workshop.

2. You and I will need to discuss the conduit function later with the State attorney, as I believe it only applies to being a conduit for "back-and-forth conversation"...but correct me if I am wrong. (note: I understand your concern to not let things get out of hand, but when Sunshine -- which is designed to keep the public involved and provide for archiving regarding the decision process -- also limits transparency and a Commission members right to articulate, uni-directionally and without collusive conversation, the need to keep this process moving in a public venue, then there seems a problem.

Also, in the past, it was my understanding that you gave credence to the right of commissioners to deliver one-way communiques, as long as there was no back-and-forth responses allowed.

I know this is a fine line, but I will pursue it as I think it is partially the key to reversing our culture of inaction and lack of past transparency.

So, can you please advise asap what you feel the attorney general of Florida would allow --- specifically regarding my sending an email today stating my concerns to our Mayor and Commission via blind-carbon-copy (bcc) to the effect that we should NOT accept this watered down version of the grant outside of a workshop to try to secure the original intent alligned with our Comprehensive Plan.

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Thanks John.

Bryan

From: "attyhearn@aol.com" <attyhearn@aol.com>
To: bcooper839@yahoo.com; villagemanager@biscayneparkfl.gov; villageclerk@biscayneparkfl.gov
Sent: Thu, December 17, 2009 7:24:11 AM
Subject: Re: Concerns; problems....with tomorrow's rushed decision

Bryan, Ana can (and I am sure she will today) discuss with each Commissioner their understanding of the direction given at the last meeting. This will include concerns that she sees (and facts that she learns whether from Commissioners or otherwise) and has which I am sure include your concerns. She cannot however act as a conduit between each commissioner. She also cannot have a straw vote of any kind outside the sunshine law.

I agree that since Commission has not taken a final stance that we should try and keep both options open. Ana, anything that can be done to keep both options open would be the best based on my recollection of Commission direction. See what Kim has in the minutes.

We can address the ethics issues etc. when convenient for you. Thanks.

-----Original Message-----

From: bryan cooper <bcooper839@yahoo.com>
To: attyhearn@aol.com; villagemanager@biscayneparkfl.gov
Cc: villageclerk@biscayneparkfl.gov
Sent: Thu, Dec 17, 2009 1:10 am
Subject: Concerns; problems....with tomorrow's rushed decision

Ana & John:

Below are my considerable concerns, and questions...reflecting what I think we owe residents for improving multi-modal safety in our Village.

1. It is pretty clear now that you are now NOT presenting this just as a "possible" scope change for future public discussion and vote on or after January 12. After tomorrow it will no longer just be a *backup* for if we do not move forward with a successful workshop for an alternate linear route...e.g. on 113th on or after the 12th --- but instead your action tomorrow will be an irreversible change after filing with MDT? Am I correct?

3. If so, by doing this, are you not setting us up to kill an originally approved project (by FTA Atlanta at the federal level) --- and before a next Commission meeting or workshop where both plans could be discussed publicly before our constituents?

4. Can/will you poll the Commission about the *2 choices* and their views of each, and remind them of the path inherent in our State approved comp plan, including the possibility of 113th or another route.....when you present them the question of scope change?

5. Have you read our State comp plan and how this change might impact it? Or, have we considered how the loss of this start to safer roadways could impact our ability to tap into state/federal funds for more internal livability and safety initiatives?

6. After your decision tomorrow, will you present to all Commissioners and the public the suggestions/thoughts of each Commissioner (yea/nae) and how it impacted your decision?

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*(I have concern about a previously publicly discussed and voted item, which now falls under a new Commission with new outlook, being removed from public discussion with a suggested scope change a day before a deadline, when in fact we don't need to make a scope change if we are going to stick with working toward an original green-way effort using shoulders...and in a new location that might not have as many problems).

6. Last, Ana: will you specifically ask MDT if we can keep alive BOTH options as long as possible until we can have public workshops in late January or February to decide on the start parameters in March?

7. And, John: It is my understanding that your and the Manager's role is to make sure no discussion starts outside of Sunshine, but that uni-directional information and position statements are NOT a Sunshine violation and it is up to management to direct factual information or information statements that have been Sunshined at past meetings for reconsideration; especially if the reiteration is archived for public access through email; and if they are instructed to not reply to me? I hope this is still the case, and that Ana does not see a problem in posing my questions to the rest of the Commission on such a time-sensitive decisions.

As a side, yet important, note: I sincerely hope Ana we are not trying too hard to dodge the original idea, when so many people were genuinely for making our streets safer while, unfortunately, at the same time, there was clear misinformation from a few committee members that caused a little public resistance -- and from a relatively small vocal minority of residents on only one segment...with the "silent" majority in our Village and our comp plan directives not being considered adequately along with the rest of the people on/near the possible routes who liked the idea of safer roads.

Finally, I have been advised (and it was clear to me) that in some cases, there was outright false information presented by committee members publicly and at meetings (and in fact some minority ad-hoc safe-pathways committee members who were for the shoulder idea recognized this as occurring), and that it was intentional, and that this could be an ethics / charter violation with county & state action pending the direction of the final outcome. I will work with John later on the ethics violation question, but just want you to be aware -- in part because if past misinformation is documented, and it can be shown to be violations of our Charter and truth in government, then there would be a visible tainting of government process that started us toward this suggested scope change -- instead of working toward a plan already approved the FTA Atlanta, etc..

Bryan

From: "attyhearn@aol.com" <attyhearn@aol.com>
To: villagemanager@biscayneparkfl.gov; rox@roxross.com; albertchildress@yahoo.com; steve@stevebernardarchitect.com; anderson11905@gmail.com; bcooper839@yahoo.com; albert.childress@cityofdoral.com
Cc: villageclerk@biscayneparkfl.gov
Sent: Wed, December 16, 2009 4:43:33 PM
Subject: Re:

Thanks Ana. Again please only contact Ana and do not e-mail other Commissioners. Thanks.

-----Original Message-----

From: Ana M. Garcia <villagemanager@biscayneparkfl.gov>
To: rox@roxross.com; 'Al Childress' <albertchildress@yahoo.com>; 'Steve Bernard' <steve@stevebernardarchitect.com>; 'Bob Anderson' <anderson11905@gmail.com>; 'bryan cooper' <bcooper839@yahoo.com>; albert.childress@cityofdoral.com

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Cc: attyhearn@aol.com; villageclerk@biscayneparkfl.gov
 Sent: Wed, Dec 16, 2009 3:38 pm
 Subject: FW:

Good Afternoon Mayor, and Commissioners, I have been in communication with the county in regards to the ARRA (American Recovery and Reinvestment Act), and we have our answers. We can sign the interlocal in the January 12th meeting and submit to the county with no problem.

In regards to a scope change we have to submit them a brief narrative by end of business day This Friday the 18th (the email sent yesterday said the 17th) but per our conversation today they informed me it was the 18th. To be on the safe side I will send them the narrative no later than Thursday.

The first attachment is an example of Virginia Gardens Interlocal Agreement. The second attachment includes all the cities and what they are doing including Biscayne Park number 30. The key to this attachment is that we can change the scope, but only to include what has been approved for another City. We can have New Benches, Trash Bins, Bike Racks, Signage and Lighting to be included in our new scope, but we cannot have Wi Fi, as had been suggested.

I had also inquired about Bus shelters, but even some of the most inexpensive ones would blow the 31k budget. (Example Aventura Bus shelter 100k installed)

My Recommendation based on what we can get for the money that serves a dual purpose is the following; Benches for the Park that are backless and can be used by those waiting for the bus as well as those watching a recreational activity, or simply someone resting after a run or walk around the path. I would also include matching trash bins, a bike rack a lighting component, ADA accessibility, and a signage component. I would recommend a similar Scope for Village Hall. Village Hall, and the Park are the two stops for the Nori, There is a need in both locations to include the above mentioned items, and the budget would allow for some really beautiful amenities. The median adjacent to the cabin is a linear Park, we do get individuals riding their bike to Village Hall and we do get people coming over with their little ones as just the other day I met Grisset Roque with her toddler, they live right on 6th avenue.

Please provide me your comments or call me to discuss. I will forward you the other email I received from the County yesterday. Thank you.

From: Maple, Celestine (MDT) [<mailto:mapl@miamidade.gov>]
Sent: Tuesday, December 15, 2009 6:40 PM
To: agarcia@biscayneparkfl.gov
Subject:

Per our conversation. Call or email any time.

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Version: 9.0.716 / Virus Database: 270.14.110/2568 - Release Date: 12/16/09 03:02:00

No virus found in this incoming message.

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Version: 9.0.716 / Virus Database: 270.14.111/2570 - Release Date: 12/17/09 03:30:00

1/27/2010

Ana M. Garcia

From: bryan cooper [bcooper839@yahoo.com]
Sent: Tuesday, December 22, 2009 3:51 PM
To: villagemanager@biscayneparkfl.gov; Ana Garcia; attyhearn@aol.com
Subject: Tort, future village "safer" roadway plans, etc.

Ana & John:

I would like to start an email discussion of risk management / liability (even if we split hairs over the latter word) for the Village.

I do this because I spoke to numerous residents while campaigning who were concerned or dissatisfied regarding roadway safety and quality of life issues. And I had 70 or so people sign on to the idea of creating safer roadways even before I decided to run.

In addition, because of some of my past conversations with outsiders, including a county engineer, I understand that all municipalities -- large and small -- with partial or complete responsibility for roadway safety, can (and should) protect themselves and their residents by developing good planning structures for incremental improvements to roadways that go beyond narrower more traditional concerns of the past.

Moreover, as I understand it, unless towns and villages, as well as larger state and county government agencies create this long-term planning to address creating and/or enhancing roadways that are safer --- for the sharing of roadways with *multi-modal function* -- accidents and legal system can and will most likely take over with probability of awards for the personal injury (would court costs be on top of the award?) as the driving force for us to find the \$ to make the internal changes.

For example, would you think that a prosecuting attorney would not have a "field day" in court, if his/her client was a person injured by a vehicle on BP roads somewhere immediately between our two points of service (EBP and the Cabin), and if they researched that we had turned down approved ARRA plans that would have made a stretch of roadway safer with a linear shoulder connecting these two points, and that we had the chance to complete this portion of roadway safety in our Comp plan approved by the State, and then did not?

If necessary, with time, I would like to expand Village communications with some experts (from both government and perhaps even representatives of the agencies/organizations that are seeing some of the successful litigation to effect change). This might help give more background on how we can hopefully expand our own planning, and begin to see this is "the right thing to do" even if notwithstanding our own immediate perceived budget and litigation/liability status-quo .

At the bottom of this mail, I've cut/pasted & highlighted in yellow some municipal related documentation freely available on the web that happens to match what I've been verbally advised from some municipal experts about what the Village should be doing, including:

- a) Creating a long-term plan for improving multi-modal use and protections of those who use our roadways.
- b) Beginning, even if slow and incremental, getting some things done through grants or other direct expenditures, to show we are making a good-faith effort/start.

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c) Integrating with planning recognized / approved by the State of Florida (our comprehensive planning documents), multi-modal systems that are being developed in nearby town or larger municipal efforts through regional planning that we could become part of.

I look forward to talking upon my return, and would appreciate that you email me with your take on this, because I'd much rather have a discussion/dialogue with you in private before a meeting-- and see if we are in consensus on some points -- before moving it on to any debate publicly.

I say this because I might need to bring this up at the January 12th meeting, as to why we should move forward with the safer-roadway plan funded through the ARRA on 113th street...as the first start to making a shift here to align with the above new/best practices, and our State comp plan that talks about linking the EBP and Log Cabin. So, maybe we can have some dialogue, even if by email, before the 12th to see where we stand.

Thanks.

BC

p.s. I have some additional documentation, but it is at home (not on my computer).

LESSON 22: TORT LIABILITY AND RISK MANAGEMENT

"Taking systematic steps to identify and evaluate risks and to develop an effective risk management program are essential measures, even if your agency cannot afford to remedy all problems immediately. Without a well-conceived and well-implemented risk management program, the courts become de facto policymakers."

"...planners must consider the needs of the pedestrian and bicyclist. Design of streets, bridges, surface conditions, maintenance, and operations must be all viewed differently with the increasing importance of bicycling and walking to people of all ages. The very young, the old, and the disabled rely on walking and bicycling for everyday transportation and exercise. Highway and recreational facilities that fail to fully incorporate the needs of all users increase the likelihood of potential court settlements in favor of those who are excluded.

22.5 Cases That Lead to Quick Settlements against a Government

Roadway design, planning, operation, and maintenance that do not consider bicycle and pedestrian use.

...The bicycle is seeing increased use for transportation and the health benefits of walking are receiving greater attention. More than twenty years of experience have passed in designing for bicycles in the United States, with millions of dollars devoted to research and planning. With every passing year, the

courts become less and less sympathetic to agencies that have not understood the message: bicyclists and pedestrians are intended users of the roadway.

[13] Section 316.003(53), Fla. Stat., defines "street or highway" as follows:

"(a) The entire width between the boundary lines of every way or place of whatever nature when any part thereof is open to the use of the public for purposes of vehicular traffic;

Clear that "street" and "highway" are interchangeable and share the same definition in terms of code and law.

(53) STREET OR HIGHWAY.--

(a) The entire width between the boundary lines of every way or place of whatever nature when any part thereof is open to the use of the public for purposes of vehicular traffic;

(b) The entire width between the boundary lines of any privately owned way or place used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons, or any limited access road owned or controlled by a special district, whenever, by written agreement entered into under s. 316.006(2)(b) or (3)(b), a county or municipality exercises traffic control jurisdiction over said way or place;

(c) Any area, such as a runway, taxiway, ramp, clear zone, or parking lot, within the boundary of any airport owned by the state, a county, a municipality, or a political subdivision, which area is used for vehicular traffic but which is not open for vehicular operation by the general public; or

(d) Any way or place used for vehicular traffic on a controlled access basis within a mobile home park recreation district which has been created under s. 418.30 and the recreational facilities of which district are open to the general public.

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Version: 9.0.722 / Virus Database: 270.14.117/2581 - Release Date: 12/22/09 03:09:00

1/27/2010

Ana M. Garcia

From: attyhearn@aol.com
Sent: Thursday, January 14, 2010 8:58 AM
To: villagemanager@biscayneparkfl.gov
Subject: Fwd: ARRA

FYI.

-----Original Message-----

From: attyhearn@aol.com
To: bcooper839@yahoo.com
Sent: Wed, Jan 13, 2010 8:02 pm
Subject: Re: ARRA

Brian: Candidly, I am surprised by the tenor of your e-mail. My position, which I have articulated before, and to you specifically, has not changed. Again, I have no position as to whether it is "safer and better" - I leave that to traffic experts. You know that because I reiterated that to you several times during our Saturday conversation. My issue is liability. Putting in a road shoulder/greenway like a stop sign, providing that it meets all standards and is supported by our traffic experts, would not appear to increase liability. However, the Village will have a duty to maintain the facility once built. My conversation with Ana was consistent with the above.

I am very sensitive to the Village budget and do not bill the Village for all my time. However, despite the fact that I do not bill for all my time, of course, I do bill for Village work. I have no objection to you seeking your own pro bono advice. However, as you are aware, the official advice and legal position of the Village comes through the Village Attorney's office. As background, I have been in practice for over 20 years, with 18 of those years specializing in municipal law. I have attained the highest rating from the nationally recognized attorney rating agency, Martindale-Hubbell of "AV Preeminent; 5.0 out of 5". I have a strong connection to the Village having lived and played sports there for years. My job is to see that the Commission's policies are achieved while providing the best legal advice and protection. I provide respect to all elected officials in the various municipalities in which I work. I would ask that I receive the same respect. I look forward to assisting you and the Commission in accomplishing great things for the Village over the next several years. Thank you.

-----Original Message-----

From: bryan cooper <bcooper839@yahoo.com>
To: John Hearn <jhearn@biscayneparkfl.gov>; attyhearn@aol.com
Sent: Wed, Jan 13, 2010 8:13 am
Subject: ARRA

John:

I'd like for you to confirm something. Ana, by phone and before the meeting, had told me that you had told her it was better to not create the road shoulder/greenway than to do it. (Her words were that you told her it was safer or better to not do anything than to do something. I was a bit shocked at this, because our conversations would not have led me to believe that you were providing such council to her (and not to me or the rest of the Commission).

If true, can you tell me what the basis if your reasoning was, and why you did not articulate it freely to

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me? If you want me to call to discuss, feel free to let me know the day/time.

Also, please let me know if you are charging the village for my questions that are still pending regarding legalities, best practices and reasoning for striving for certain levels of service that have been neglected in the past.

To save the Village money, I might seek outside legal assistance that can be delivered pro-bono...if in fact my questions are going to be costly to the village; and or the time to get the answers will be lengthy.

Thank you.

BC

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Version: 9.0.725 / Virus Database: 270.14.138/2618 - Release Date: 01/13/10 02:35:00

1/27/2010

Ana M. Garcia

From: bryan cooper [bcooper839@yahoo.com]
Sent: Friday, January 15, 2010 2:19 PM
To: attyhearn@aol.com
Cc: Ana Garcia; villagemanager@biscayneparkfl.gov; John Hearn
Subject: Re: pending question RE: FPL...and utility user tax

The below ease (for a municipality) might be expressed to FPL in our negotiations?

With a UUT (User Utility Tax), the time spent measuring the electrical usage would only need to be twice a year (or two *existing* work-days out of the over 150 that are currently dedicated by existing staff solely to garbage.

And, in fact, the two days could be accomplished on the *same days* that we do existing trash service since the man who removes garbage cans from peoples' yards also in in direct vicinity of the meters when he does so. (No extra leg-work, only pushing a button).

Some residents have said how this employee is often on his cell phone when he walks the Village pulling cans (which I have no problem at all with given it being the job that it is), but maybe this points to the ease with which on 2 days out of the work year he could carry the meter reading device to glean the information regarding electrical usage of the residents.

Thanks for allowing the discussion.

BC

From: bryan cooper <bcooper839@yahoo.com>
To: attyhearn@aol.com
Cc: Ana Garcia <anamgarcia@bellsouth.net>; villagemanager@biscayneparkfl.gov; John Hearn <jhearn@biscayneparkfl.gov>
Sent: Fri, January 15, 2010 2:00:55 PM
Subject: Re: pending question RE: FPL...and utility user tax

John (and Ana):

Perhaps you can elaborate for our Manager on how just such a consideration, if kept on the front burner by her through the negotiation stage, might be a prudent thing to do in terms of achieving concessions from FPL --- as you work to get things you are asking for on behalf of Commissioners, who are like her charged with looking out for the long-term health of our community (fiscal and aesthetic).

There are indeed examples of Utility User Taxes out there in our nation and applied directly to homes and businesses. Do you consider this leverage?

Last, for Ana: When we have trash pick up annually 2x a week and yard waste one time a week, 3 passes around the village 52 weeks a year (over 150 passes through our Village....it hardly seems an inconvenience to not at least consider a little longer that we might...when our one staff walks the village

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to pull garbage cans as he currently already does, that he carries a meter clipped to his belt and takes a few additional seconds to tap a button on a handheld meter...with the result a great benefit to the residents of the Village.)

And Ana, I know you have said you treat staff better than yourself, and put the welfare of staff at a high level as you should, but I hope that we can consider equally the important picture of considering change in government practices at crucial moments (such as 30 yr. negotiation points in our history, where what we do today in small steps will have great impact and legacy (good and/or bad) depending on what is accomplished in the coming weeks, and how.

BC

From: Ana M. Garcia <villagemanager@biscayneparkfl.gov>
To: bryan cooper <bcooper839@yahoo.com>
Cc: villageclerk@biscayneparkfl.gov; attyhearn@aol.com
Sent: Fri, January 15, 2010 1:25:31 PM
Subject: RE: pending question RE: FPL...and utility user tax

Hi Bryan, I hope all is well. As I continue to evaluate staff their duties and all our needs, we are working towards the best strategy possible, at this moment taking on that responsibility is not something we can do. I would not want to ever set up any of our employees for failure as I have no doubt you would not either. As we stand now we have more work than we have individuals to perform that work. Before we take on a new responsibility, we will work towards perfecting existing tasks. We will also work towards more training and employees development.

From: bryan cooper [mailto:bcooper839@yahoo.com]
Sent: Friday, January 15, 2010 12:37 AM
To: attyhearn@aol.com; John Hearn; villagemanager@biscayneparkfl.gov
Subject: pending question RE: FPL...and utility user tax

John & Ana:

See below mail I sent on Jan. 09, regarding a question to each of you as to possibility (legally/procedurally) for our collecting the franchise fee ourselves. Some municipalities in the US seem to be able to levy a utility tax, but I'm not sure whether the consumption can be taxed directly to the consumer (instead of having FPL do it for us).

Hence, John, can you comment on whether the Village could (or not) within State of Florida Laws create a Utility User tax (UUT by ordinance) and directly procure this from the residents by way of our reading meters and gathering the tax through the annual Miami-Dade tax process?

Ana: Here is a link to a handheld meter that appears on the market for reading multiple brands of electric meters. http://www.ec21.com/offer_detail/Sell_Handheld_Electricity_Meter_Reader--1577570.html

Is it feasible to consider that we could have village staff traverse our small municipality twice a year (could it be done by waste staff on designated days when they service our homes for trash?), using such a device, to measure annual consumption of each resident, and develop control over our our utility tax base and the freedom from a 30-year contract and all other concerns?

I could guess the Florida Power and Light and the public services division of Florida might not allow somehow (closed all loopholes?), but I think now is the time to ask the question in light of our negotiating.

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Ana M. Garcia

From: bryan cooper [bcooper839@yahoo.com]
Sent: Saturday, January 09, 2010 11:45 AM
To: villagemanager@biscayneparkfl.gov; attyhearn@aol.com
Subject: FPL questions

Ana:

Can you tell me the mechanisms by which FPL remits the franchise fee to the Village? Is it monthly? Annually?

Is it possible for the Village to not sign with FPL, and collect the fee directly from residents through the County tax bill process (as we do with our waste fee?). In other words, is it legal for the Village to take control of the fee that FPL passes through to us and include it under an enterprise fund as we do with Waste, and let the county collect it and remit to BP?

Can you call the county Ana, and see if they would do this for us?

I am researching methods by which we (the Village) can measure electrical usage of our residents internally without the help of FPL. (It appears that the handheld devices that read the homeowner meters electronically from up to 1000 feet away might be available for purchase by the Village...and if all we have to do is read them twice (at the beginning and end of the tax year), this might be a solution to opt out of FPL....(?).

BC

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Version: 9.0.725 / Virus Database: 270.14.133/2612 - Release Date: 01/10/10 14:35:00

1/27/2010

Ana M. García

From: bryan cooper [bcooper839@yahoo.com]
Sent: Wednesday, March 17, 2010 5:13 PM
To: villagemanager@biscayneparkfl.gov
Cc: vobparchives@biscayneparkfl.gov
Subject: Re: Revenues

Clearly his is not out of the box thinking, but you yourself said that fiscal types are not prone to have the ability.

From what he writes below, however, it is clearly possible and legal to set up an enterprise fund as we discussed.

A question:

Would you be willing to allow me to create a list of the costs associated with the Ed Burke park, starting with the salaries of staff, building insurance, electricity, and field pesticide & fertilizer maintenance....to see if it hits at least \$125 K?

A few other notes: Ken sees a negative in having to cover any shortfall in an enterprise fund, but that is not a realistic liability in that we currently have the same shortfall burden paying for the same services out of general millage revenue. A shortfall necessitates balancing actions, regardless.

Per his bias against "the energy business". He should read the Herald article on the green corridor partnership in our sister municipalities to the south.

Also, as he writes, creating the enterprise fund is...and here is the operative word...."simply" an accounting function. What I have articulated to you and John.

The "revenue" issue is an accounting term. However, the flexibility of increasing revenue stands, as the Village could raise it from 5.9% if need be, so you have an operative way to elevate the revenue stream to the village or simply associate it as an annual fee based on cost of services. Exactly the function of our waste service.

So, clearly, this can be done Ana, and we don't need to sign the FPL agreement.

Let me know what you are willing to do.

BC

p.s...he sells a course on revenue enhancement?

From: Ana M. Garcia <villagemanager@biscayneparkfl.gov>
To: bryan cooper <bcooper839@yahoo.com>
Cc: villageclerk@biscayneparkfl.gov
Sent: Wed, March 17, 2010 4:06:13 PM

2/5/2010

Ana M. Garcia

From: bryan cooper [bcooper839@yahoo.com]
Sent: Monday, July 26, 2010 7:28 AM
To: VillageClerk@BiscayneParkFl.gov; villagemanager@biscayneparkfl.gov
Cc: vobparchives@biscayneparkfl.gov; attyhearn@aol.com
Subject: meeting

Ms. Garcia:

I will not be attending your meeting this afternoon.

In the future, to save us time, can you please just create an executive summary, for example, of what the property appraiser has to say to us?. (Surely, you have talked with this individual, and therefore have in mind something that you want them to communicate to us, or you would not have scheduled the meeting?).

So, I ask: is there a reason that it has to be done behind closed doors and with each one of us?

Such meetings, with very little information in advance or for eventual disbursal to the public in a memo, appear to me to be a problem.

But if you ever communicate in advance good cause, I will listen and consider a meeting.

Bryan Cooper

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Version: 9.0.851 / Virus Database: 271.1.1/3028 - Release Date: 07/25/10 14:36:00

Ana M. Garcia

From: bryan cooper [bcooper839@yahoo.com]
Sent: Sunday, April 04, 2010 9:56 AM
To: anamgarcia@bellsouth.net; Maria Camara; villagemanager@biscayneparkfl.gov; attyhearn@aol.com
Cc: vobparchives@biscayneparkfl.gov
Subject: Re: Clarification; serious concern

All:

Mr. Small said it was the "easy" thing to do Ana, he did not comment on whether it was the right or best thing to do for our village in the long run. When I spoke to Mr. Small recently, he said he was unaware even that we ran an Enterprise fund for our garbage service. He was very surprised at this, and seems to know very little about us. And it was Mr. Small who stated that, given our concerns, we should be negotiating for a 10 year agreement with FPL, and that FPL could not legally stop payment while we continue to negotiate this issue....and that we should not be so easily coerced into signing with the 30 years in place. As I said to John H., there are possibilities that apparently are not being given to us as commissioners, and I hope that in the future our attorney presents to us ALL relevant information so we can make intelligent planning and negotiation decisions, and before it reaches this point in time.

In addition, I have recently provided Mr. Small a page from an article, that he was unaware of, that actually lists the many many ways that Enterprise funds in fact are used creatively. He only thought they were used for a select few things in government, and seemed to have limited knowledge of just how they are a potential flexible tool.

Even though I provided a list of scores of ways they are used to him, he has not replied to this information as of a few days ago...perhaps because it was news to him. He also kept thinking that I wanted to use this to create revenue (which he said would be illegal as a round-about tax, and I told him that it was not revenue, but just offsetting costs...which is the requirement of an enterprise by law, just as we are supposed to run with our trash enterprise. He basically agreed with me on that. In fact, he seemed a bit reserved about the fact that we transferred \$ from our enterprise into the general fund. As I think this is indeed a problem legally; but we did it. More on that later.

Ana, just to argue the creativity (and John, you keep saying we as the commissioner can pass any ordinance we want)...we were both at the meeting where one of your finance candidates admitted that an enterprise fund was even used for a fire volunteer department. I have evidence how they are used for parks.

All in all, Mr. Small seems more interested in making things "easy" for government. But what is best, is not always easy. If government always takes the easy way out, and if we select only one email from a league official as reason to stop thinking outside the box, well, then I consider that not doing our work...just as when we take one cities decorum ordinance as a starting point.

Mr. Small also has a consulting role where he has built up a dog & pony show that he uses when he travels to municipalities on how to generate additional revenue. In my conversation with him, why he doesn't promote enterprise funds is because he does not see them as producing "revenue". I'm sure that those who pay our garbage fee would see it differently, especially since that revenue gets passed off to the General Budget.

Last, I think it would be important that a village manager to create reports, perhaps with help from the Commissioner. And I'd be willing to help, but you need to take the lead. These can be distributed by email...but you are the manager who can make it happen, and help pull it all together. That is what we pay you for with our tax dollars. I hope that the time that you spend with some commissioners who spend full days at village hall does not take you from such possible collegial work that can benefit all...and that those who work full-time are not treated differently. (With that last thought, maybe we need an ordinance that states that each commissioner is allotted a certain amount of equal time from the manager?)

Thanks.

Bryan

8/9/2010

email: villageclerk@biscayneparkfl.gov

From: Bryan Cooper [mailto:bryancooper7@yahoo.com]
Sent: Thursday, July 08, 2010 7:38 AM
To: villageclerk@biscayneparkfl.gov
Cc: agarcia@biscayneparkfl.gov; attyhearn@aol.com; vobparchives@biscayneparkfl.gov
Subject: Re: Sunshine & Commissioner research request

Ms. Camara:

I had arranged to have this Friday off, and am uncertain as to the next week. So, I'll just say it is too bad in terms of appearance.

It's pretty clear that the Mayor, from what I've been told, takes a day off every week and gets lots of service at the log cabin in her capacity, but it seems that I am having problems, again, getting timely access to information under the laws of the State of Florida. I guess we will now reschedule and delay.

Perhaps then you can start by sending me a list of material, (receipts from iron mountain, etc.), if any, for material that has been transferred to the storage sites in question in the past 6 months, **listed by month.** This should be easily found in one file, right? I have been here since mid January and nothing has been transferred over to Iron Mountain. Please refer to the listing I provided to you and on the column titled 'Rcpt Date' you can see the date that a box was received at Iron Mountain. The same applies to the storage facility in North Miami, nothing has been added.

I'll say that my request has been standing for some time now to be able to meet with Village staff on this, and I hope that John has explained to Village staff our Charter form of government and how inequities in service between Commissioners / Mayor would not be well received, I would think, by external reviewers, not to mention residents.

Last, have you been advised by Ms. Garcia to wait and delay until after next week's meeting? No

Bryan

From: village clerk <villageclerk@biscayneparkfl.gov>
To: villageclerk@biscayneparkfl.gov
Cc: agarcia@biscayneparkfl.gov
Sent: Tue, July 6, 2010 11:37:00 AM
Subject: FW: Sunshine & Commissioner research request

Commissioner Cooper and Full Commission:

In response to your question:

1. Iron Mountain is an outside document storage facility in Sunrise. Only the Manager, the Finance Director, the Chief and the Clerk have authorization to request information from Iron Mountain on our account, and to retrieve records from storage. To retrieve records you must request the entire box to be pulled which is done by Iron Mountain and delivered to us. There is a fee for retrieval, delivery and to put back into storage. Attached is a listing of the records in storage at that location.

8/4/2010

Ana M. Garcia

From: village clerk [villageclerk@biscayneparkfl.gov]
Sent: Friday, July 30, 2010 2:17 PM
To: agarcia@biscayneparkfl.gov
Subject: FW: Sunshine & Commissioner research request

From: Bryan Cooper [mailto:bryancooper7@yahoo.com]
Sent: Friday, June 18, 2010 7:11 PM
To: villageclerk@biscayneparkfl.gov
Subject: Sunshine & Commissioner research request

Maria:

Can you please let me know times/days when you will be available, preferably in the late afternoon, to provide me unlimited access to all village files and records for a period of about 1 hour, for my personal research in the log cabin. I ask that you be present, as well as all staff who are related to any and all finance related procedures.

Once you know the windows of possible service (days/times possible), please send me an email with a list, including the staff who will be present and that will allow me access to the files and/or information that I will request upon my arrival.

If there are any files that are in storage, please let me know, based on the Village Documentation Retention Policy, what documents will be in storage, and hence difficult to access, based on:

A. Area/Subject (Finance, Personnel, etc.)

B. Associated moving time frame (e.g. 6 months, 1 year, 3 years, etc.) when they are moved from the log cabin (and hence no longer readily accessible for my research) to any storage facilities that the Village uses....and that would hinder my research.

I look forward to hearing from you.

Best regards,

Bryan

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Version: 9.0.851 / Virus Database: 271.1.1/3036 - Release Date: 07/30/10 02:34:00

Ana M. Garcia

From: Bryan Cooper [bryancooper7@yahoo.com]
Sent: Thursday, June 03, 2010 7:17 AM
To: villagemanager@biscayneparkfl.gov
Cc: attyhearn@aol.com
Subject: performance question

Ms. Garcia:

I have a question for you regarding your answer below, and it is in the context of my compiling notes for your performance review.

Can you tell me more about your personal work policy as to how you prioritize regarding such hands-on work that you assume, and which might appear to me to be the responsibility of your department heads: e.g. written reports from them could detail the water in the garbage cans, how often it occurs because tops to cans are not used, or are broken, etc.), and how you intend to balance your being in the field against other administrative responsibilities of a village manager? I ask because it appears that you were out and very busy on an observation detail that took up your and other staff time? You might tell me what you observed that you felt you could not observe and have written in a report to you by your staff, and which you could expeditiously read and get on with other pressing administrative responsibilities as delivering information to a Commissioner.

Or do you see such close oversight...a regular role for yourself? I am concerned, so I ask directly: Do you see such oversight impacting your ability to administrate, for example, grants in the future? Other projects that necessitate quality paperwork and the flow of information in reports, etc.?

I ask this very important question as I sense that there are times when you say you are overly busy with hands on stuff.

And more simply at this point, as an administrator by profession myself, I worry about your description of what constitutes a busy day below, and your appearing in part to use it as an excuse; neglecting to provide some of the very basic information that I request below and that clearly is not a legal question requiring attorney consultation, unless you are unsure as to a philosophy or practice on the free flow of information that we request from you? And if so, it should not take so long to determine, as John Hearn, has email despite any additional work he performs.

Bryan Cooper

From: Ana M. Garcia <villagemanager@biscayneparkfl.gov>
To: Bryan Cooper <bryancooper7@yahoo.com>; attyhearn@aol.com; villageclerk@biscayneparkfl.gov; bcooper@biscayneparkfl.gov
Cc: agarcia@biscayneparkfl.gov
Sent: Tue, June 1, 2010 9:00:01 PM
Subject: RE: ARRA Grant

Hello Commissioner Cooper, I hope you had a good weekend.

8/4/2010

Ana M. Garcia

From: Bryan Cooper [bryancooper7@yahoo.com]
Sent: Thursday, May 27, 2010 8:58 PM
To: villageclerk@biscayneparkfl.gov
Cc: agarcia@biscayneparkfl.gov; attyhearn@aol.com; Lynne S. (MDT);
 vobparchives@biscayneparkfl.gov
Subject: Re: ARRA Grant

Ms. Garcia and Attorney Hearn, Clerk Camara, and Ms. Fain.

1. Can you please provide the phone number and contact information for Javier Salmon? I have some fact-finding to do, and would appreciate your cooperation. I also find it unfortunate that I was not asked to attend the meetings.

2. I would like the phone number of Chip Butts, General Engineer-FTA (Region IV) Located in Atlanta, GA from Ms. Fain.

3. Can someone reference the administrative code that mandates that an engineer has to be brought in as a "project manager"?

I surely hope that we are not interpreting wrongful mandates that will be used to set up yet another roadblock to this grant that has been approved.

Thanks in advance for your assistance,

Bryan Cooper

From: village clerk <villageclerk@biscayneparkfl.gov>
To: rross@biscayneparkfl.gov; achildress@biscayneparkfl.gov; Commissioner Bob Anderson <banderson@biscayneparkfl.gov>; sbernard@biscayneparkfl.gov; bcooper@biscayneparkfl.gov
Cc: agarcia@biscayneparkfl.gov; attyhearn@aol.com
Sent: Thu, May 27, 2010 2:39:57 PM
Subject: FW: ARRA Grant

An additional meeting took place where we obtained further information regarding the ARRA Grant:

Tuesday, May 25, 2010: The Manager and Clerk met with:

Lynne Faine

Celestine Maple

Javier Salmon, Project Manager for the ARRA Grant, Miami Dade County

Lynne Faine called this meeting to meet Mr. Salmon so that he could provide us with information on additional requirements of this grant as follows:

Whether we were to proceed with the original plans for the route, or a different one that still maintains the original scope submitted with the grant application, the following must be done/will take place:

1. The Village of Biscayne Park must acquire the services of an Engineer to be brought in as a consultant for the project and would serve as the Project Manager. Selection of the engineer must be done through a bid process and proof of the bid process must be provided. Mr. Salmon noted that the federal guidelines are extremely strict.
2. The Engineer must provide the cost estimate of the project in order to tap into the funds from this grant.
3. Once the Engineer's estimate is provided to the County (Lynne and Mr. Salman), the County's Process Review group will review to confirm that the grant funds will cover the cost of the project. If not, then the additional funds must come from the Village. If the Village is not able to come up with the additional funds, then we must opt out of the grant..
4. To opt out, a letter must be sent by the Mayor to Miami Dade Transit, Marjan Mazza. The same must be done if a decision is made not to go forward with an alternate plan. Mr. Salmon advised that this must be done soon.

As previously advised, this item will be placed on the agenda for the June 8th meeting under 'Old Business' and both these e-mails will be provided in the agenda packet.

Thank you.

Maria C. Camara, Village Clerk
 Village of Biscayne Park
 640 NE 114th Street
 Biscayne Park, FL 33161
 Tel: 305 899 8000, Ext. 201
 email: villageclerk@biscayneparkfl.gov

From: village clerk [mailto:villageclerk@biscayneparkfl.gov]
Sent: Thursday, May 20, 2010 1:43 PM
To: 'ross@biscayneparkfl.gov'; 'achildress@biscayneparkfl.gov'; 'Commissioner Bob Anderson'; 'sbernard@biscayneparkfl.gov'; 'bcooper@biscayneparkfl.gov'
Cc: 'agarcia@biscayneparkfl.gov'
Subject: ARRA Grant

The following are the notes taken in regards to the discussions with Miami Dade County Transit and the Federal Transit Administration (FTA) which is the grants

administrator for the ARRA Grant:

Friday, May 14, 2010: The Manager and Clerk met with Lynne Faine, Miami Dade Transit - Financial Services at her office.

At this meeting, Lynne recommended that we coordinate a conference call with a representative from the FTA.

Thursday, May 20, 2010: The Manager and Clerk had a teleconference with:

Lynne Faine

Celestine Maple, Miami Dade Transit

Chip Butts, General Engineer-FTA (Region IV) - Located in Atlanta, GA

At this teleconference, the questions posed to the County and FTA were as follows:

Q. Can changes be made to the original scope and plan that was originally submitted with the grant application that includes changing the actual route, or changing the method or materials used.

A. Yes - as long as we maintain the original scope which is a dedicated roadway for pedestrians and bicyclists and connecting the two transit points.

During this discussion, the idea of striping an existing 12' wide roadway to create a 3' shoulder for pedestrians was used as the example of a change being considered. Though Mr. Butts did state that this type of change would be acceptable for the grant, he stated these opinions of this idea:

- Sharing a 12' road with vehicles does not seem to be a safe method for pedestrians
- A 15' to 16' road would be better suited
- Recommends that the State's Department of Transportation standards be reviewed to see what their minimums are
- Recommends some sort of raised dome with reflectors be utilized instead of just striping to create the physical separation

Q. Can changes be made to the original scope to focus on the transit points only. The example discussed would be the addition of new transit points along with benches, shelters, garbage cans, and lighting.

A. No - this type of change is not acceptable.

Additionally, Lynne advised if we want to go forward with submitting an acceptable change as described above or any other, she recommends the following:

- The amount of this grant is just under \$32,000 - Is this amount adequate for the change that is being considered?
- If not, does the Village have additional funding available to cover what the grant

does not?

- The Village needs to assign a Project Manager and it should not be the Village Manager. As is the case with the other 27 municipalities utilizing this grant, an Engineer should be assigned as the Project Manager (either the engineer employed by the city, or one that is hired as a consultant)
- The Project Manager will review the new plan with Miami Dade Transit to make sure all of the FTA regulations and procurement policies are coordinated and adhered to.

The last question was whether Lynne or another representative of Miami Dade County would be available to attend our next Commission meeting on June 8th. They advised that they would not be able to attend and were confident that the answers provided in this teleconference were sufficient.

The information provided here satisfies the request made by the Commission at the May 4th meeting. If anyone from the Commission would like to add this to the agenda for the next meeting on June 8th, please advise and provide your backup documentation and recommendations. The deadline is Friday, May 28th.

Thank you.

Maria C. Camara, Village Clerk
Village of Biscayne Park
640 NE 114th Street
Biscayne Park, FL 33161
Tel: 305 899 8000, Ext. 201
email: villageclerk@biscayneparkfl.gov

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Ana M. Garcia

From: Bryan Cooper [bryancooper7@yahoo.com]
Sent: Tuesday, August 03, 2010 12:55 PM
To: villageclerk@biscayneparkfl.gov; bcooper@biscayneparkfl.gov
Cc: villagemanager@biscayneparkfl.gov; Rmeyers@miamidade.gov; attyhearn@aol.com
Subject: Re: Sunshine policy; unfilled access to government records

Thank you for some clarification John. As to the last sentence though, I have been trying now for quite awhile to gain access to public records, and some of them are of a financial nature, as seen in my mail requests.

I do not desire to follow up with "detailed" questions to Village employees regarding them, but will let you and the Manager know if that is the case.

And if asking if there is a published policy on public records provision is a detailed question, or where the copy of a red-lined public document is so I might see it, please advise.

As stated some time ago, I would like to be able to fully observe the research process I'm requesting on-site, and all steps resulting in the printouts, as you stated was my right.

If there are certain questions at that point that you think I cannot ask, please advise.

I ask, as since I stated previously, I have been told that other Commissioners have had and do have conversations with staff and without the Manger present.

And I want to be sure that all are treated the exact same way, and that there is no arbitrary actions or application of rules that limit the flow of information to some, but not others.

In summary, at this point, my requests for service under Sunshine is currently unfilled.

Please advise what course to take to get them.

Thank you.

Bryan Cooper

From: village clerk <villageclerk@biscayneparkfl.gov>
To: bcooper@biscayneparkfl.gov
Cc: villagemanager@biscayneparkfl.gov; Rmeyers@miamidade.gov; attyhearn@aol.com
Sent: Tue, August 3, 2010 11:42:57 AM
Subject: RE: Sunshine policy; unfilled access to government records

Attached are the forms. Thank you.

Maria C. Camara, Village Clerk
Village of Biscayne Park
640 NE 114th Street
Biscayne Park, FL 33161
Tel: 305 899 8000, Ext. 201
email: villageclerk@biscayneparkfl.gov

From: attyhearn@aol.com [mailto:attyhearn@aol.com]

Sent: Tuesday, August 03, 2010 11:34 AM

To: bryancooper7@yahoo.com; Rmeyers@miamidade.gov

Cc: villageclerk@biscayneparkfl.gov; vobparchives@biscayneparkfl.gov; villagemanager@biscayneparkfl.gov

Subject: Re: Sunshine policy; unfilled access to government records

Bryan, I asked the Clerk to provide you the public records documents as she is the keeper of the records. The form reflects the Villages policy. There is also a memo from then Mayor Walker which discussed a public records policy consistent with state law. Maria will provide you with both documents. The memo was done prior to our change in government and therefore should be updated. The issue is to make sure you receive all public documents you request. If that is not happening, let me know what documents you have not received so I can follow up. If you want to sit down and ask detailed questions to an employee of the Village, that is no longer a simple request for public records and should go through the Manager. I am not saying that such a meeting cannot be arranged, however the Manager would need to approve that request. Unlike in many municipalities the Village Clerk is not a Charter officer and does not work for the Commission. She is an employee that reports to the Manager.

Again if you have asked for public records and have not been provided with them please let the Clerk and I know so they can be produced. You are absolutely entitled to any public record that you request. If you want to follow up on financial questions re documents with Village employees, you will need to work with the Manager or her designee..

-----Original Message-----

From: Bryan Cooper <bryancooper7@yahoo.com>

To: attyhearn@aol.com; Rmeyers@miamidade.gov

Sent: Tue, Aug 3, 2010 7:56 am

Subject: Sunshine policy; unfilled access to government records

As of last night, it was not possible to use the BP web site search engine and pull up anything on internal policy per se...using key words like Sunshine, Clerk, records request, etc. A form for sunshine requests was found, but buried in a section labeled "minutes". There was nothing clearly visible on the front page, or significant entry points for service information.

As an fyi: when I've made my email requests previously to the Clerk for Sunshine related information, she never referred me to a form or a policy in the past. When I asked her in a meeting (with a witness there), she said there was no policy.

Are you saying the form is the policy John?

And can you tell me where we have a written policy that I might have been able to read that says the Clerk places all Sunshine requests for approval or handling from the Manager? (Your mail implied it ultimately goes through the Manager, correct?).

When I am trying in good faith to uphold my right as a public servant to correct problems I've been told exist in our government, is such layering appropriate for our Village, when it seems to not exist elsewhere?

I can only guess this is why I have such a hard time getting information. If I am given the access that I need, then the information can be found, which I've been told exists, that will make an informed judgment on the accusations made against me yesterday.

I am still holding off on contacting the State Attorney at your suggestion for an independent intermediary to step in. However, I would still like my access to government documents to be afforded to me.

Bryan

From: "attyhearn@aol.com" <attyhearn@aol.com>

To: vobparchives@biscayneparkfl.gov

Sent: Mon, August 2, 2010 4:10:11 PM
Subject: Fwd: meeting

Commissioners - Due process needs to be provided to all involved. The Commission needs to decide what, if any, action to take. That decision must be at a public meeting. The conversation at that meeting should be very limited in order to protect all involved. Consistent with actions taken by many other cities in these types of matters, I intend on recommending that an independent lawyer or human resources professional with no ties to the Village investigate this matter.

-----Original Message-----

From: Ana M. Garcia <villagemanager@biscayneparkfl.gov>
To: rox@roxross.com; bcooper@biscayneparkfl.gov; 'Steve Bernard' <steve@stevebernardarchitect.com>; 'Commissioner Bob Anderson' <banderson@biscayneparkfl.gov>; 'Al Childress' <albertchildress@yahoo.com>
Cc: attyhearn@aol.com; villageclerk@biscayneparkfl.gov
Sent: Mon, Aug 2, 2010 9:32 am
Subject: FW: meeting

Good Morning All,

Per the direction of John Hearn, I am forwarding this to you. If you scroll all the way down you will see the original email that I sent to John regarding my concerns. I was hoping to find resolution but my numerous requests to meet and or speak to Vice Mayor Cooper have been ignored. This was a very difficult decision for me but the decision became the right thing to do when I saw the negative toll it was taking on our Clerk. Just this past Friday the 23rd when the Vice Mayor was expressing to Maria his dissatisfaction with the Code Review he stated to Maria that he would be contacting the State Attorney's office. If it is not a threat of the State Attorney is a threat to the Ethics Committee or constant emails of dissatisfaction and accusing us of what we won't do before we even address the email. We are watching our spending and our Attorney has been very conservative in his billing, but the situation with Vice Mayor Cooper is really getting out of hand and could be very costly to us and our Village in many ways. There is nothing we can do to satisfy Mr. Cooper, and we can live with that, knowing how much we have tried to work with him.

Please know that as your Manager every thing I and my staff have ever done and ever will do will be with great integrity and the outmost of service and respect to the residents of the Village of Biscayne Park.

Respectfully,
 Ana M. Garcia

From: Ana M. Garcia [<mailto:villagemanager@biscayneparkfl.gov>]
Sent: Wednesday, July 28, 2010 2:50 PM
To: 'attyhearn@aol.com'
Subject: RE: meeting

John, after thinking things over, I would like to take the opportunity to meet with Vice Mayor Cooper, and discuss this with him first, as if the shoe were on the other foot, I would appreciate that same consideration and opportunity granted to me. Giving the opportunity of the doubt to my employer and or boss would be the first course of action I would take. Thank you for your direction, thanks.

From: attyhearn@aol.com [<mailto:attyhearn@aol.com>]
Sent: Wednesday, July 28, 2010 1:52 PM
To: villagemanager@biscayneparkfl.gov
Subject: Re: meeting

Ana, Upon review of your below e-mail I arranged to meet with you last night to discuss the content. As I informed you, my role in this matter is necessarily limited as I have no authority under the Charter to investigate the alleged actions of a Commissioner. Based on the content below, I advised that it would be appropriate for you to inform the entire Commission of your concerns. The Commission as a body can decide the appropriate course of action to take. To protect all involved I would recommend engaging an independent attorney/HR professional to investigate this matter. That decision will ultimately be up to the Commission. However, as we discussed, the below e-mail you sent to my attention is a public record and due process must be afforded to all parties. You confirmed last night that you would inform the entire Commission of your concerns today. Otherwise, I will ask the Commission for direction on how to proceed. Thanks.

-----Original Message-----

From: Ana M. Garcia <villagemanager@biscayneparkfl.gov>
 To: attyhearn@aol.com
 Cc: villageclerk@biscayneparkfl.gov; vobparchives@biscayneparkfl.gov
 Sent: Mon, Jul 26, 2010 4:16 pm
 Subject: RE: meeting

Thanks so much!

From: attyhearn@aol.com [<mailto:attyhearn@aol.com>]
Sent: Monday, July 26, 2010 5:02 PM
To: villagemanager@biscayneparkfl.gov
Cc: villageclerk@biscayneparkfl.gov; vobparchives@biscayneparkfl.gov
Subject: Re: meeting

Lets meet before the meeting tomorrow.

-----Original Message-----

From: Ana M. Garcia <villagemanager@biscayneparkfl.gov>
 To: 'John Hearn' <attyhearn@aol.com>
 Cc: villageclerk@biscayneparkfl.gov; vobparchives@biscayneparkfl.gov
 Sent: Mon, Jul 26, 2010 12:42 pm
 Subject: meeting

Hi John, I hope you had a great weekend.

John, I need to meet with you and the clerk to get some direction in regards to Commissioner Cooper. It has come to the point where everything he communicates to us via email and now in person last Friday to our Clerk is of an accusatory nature, where he is either making threats and or continuing to be derogatory. Nothing that he is bringing to light is of substance on how we can better serve our residents and or deliver services to the Village of Biscayne Park, therefore Commissioner Cooper is taking us away from the work that we should be doing, at least attempting to do so, to the point that we don't understand and or cannot assist him to his satisfaction. His actions have become a mental torture, of innuendos and perceptions where there is nothing we can do to satisfy him for his issues are not anything that we can fix.

I have called him and emailed him on numerous occasions to meet with him and make every attempt to discuss anything with him that he wishes to communicate to me so that we can better serve the Village and our residents, it has gotten to the point that we have concluded that Mr. Cooper has a personal issue with me as was communicated to me in the presence of the Clerk by Lynn Fain of Miami Dade County, and I quote "I am going after her". It is apparent that his wrath goes beyond me, to other elected officials here in the Village of Biscayne

Park, and now he continues to intimidate our Clerk, who is doing an outstanding job to serve our residents. So much of our time has been spent in dealing with trying to work with Mr. Cooper to no avail. Mr. Cooper has had an issue with my recommendation of the ARRA Grant he went after M. Fain and threaten her job, when he was a resident he went to the County and when asked why then Village Manager Spence was not present in the meeting, Mr. Cooper told Lynn Fain that Mr. Spence was on Mental Leave. This individual easily fabricates things about others without any thought to consequences, and his behavior has become detrimental to our Village and our day to day operations.

I know that this is a difficult situation for you as well, but we can no longer hope that it will go away, for it is getting worse. There is something in this individual's perception that causes him to behave in such a way that neither I nor my Clerk can make it anything better for him, if we continue to attempt to satisfy him it will basically prevent us from running the daily operations of our Village.

I ask for some direction from you, and I would like to meet with you and the Clerk to try and find some resolution, thanks John.

Ana M. Garcia, CPRP
Village Manager
640 NE 114th Street
Biscayne Park, FL 33161
Ph. 305.899.8000 ext. 229
Fax. 305.891.7241
agarcia@biscayneparkfl.gov

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Version: 9.0.851 / Virus Database: 271.1.1/3031 - Release Date: 07/28/10 04:37:00

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Version: 9.0.851 / Virus Database: 271.1.1/3047 - Release Date: 08/03/10 02:35:00

Ana M. Garcia

From: Ana M. Garcia [villagemanager@biscayneparkfl.gov]
Sent: Thursday, August 12, 2010 12:08 PM
To: 'Bryan Cooper'; villageclerk@biscayneparkfl.gov; bcooper@biscayneparkfl.gov
Cc: Rmeyers@miamidade.gov; financedirector@biscayneparkfl.gov; attyhearn@aol.com; agarcia@biscayneparkfl.gov
Subject: RE: Meeting With Finance Director

Vice Mayor,

We have scheduled two days this week to accommodate you. I have told you that the Director who is off on Fridays would have been here but he has an appointment. By what you are communicating to me who you want to meet with is our Finance Clerk, who as you know is a new hire and has been on her current position for six months that is why I wanted to include the Director also to ensure you got the most out of your visit. With that said we can arrange to have you meet with the Finance Clerk and the Village Clerk Tomorrow as long as the meeting is concluded by 5pm. Thank you.

From: Bryan Cooper [mailto:bryancooper7@yahoo.com]
Sent: Thursday, August 12, 2010 10:09 AM
To: villageclerk@biscayneparkfl.gov; bcooper@biscayneparkfl.gov
Cc: Rmeyers@miamidade.gov; financedirector@biscayneparkfl.gov; attyhearn@aol.com; agarcia@biscayneparkfl.gov
Subject: Re: Meeting With Finance Director

Thank you Ms. Camara:

I appreciate the arranging of the staff schedule, even though it was unclear if I can get away. I hope to know after an afternoon meeting today, and will notify you as soon as possible concerning my presence and that of the resident who is to attend with me.

I take it -- by the other question going unanswered now for several mails: that Ms. Garcia will not allow for the provision of the Sunshine request on Friday by allowing the staff trained to be there without Mr. Arciola present?

Bryan Cooper

From: village clerk <villageclerk@biscayneparkfl.gov>
To: bcooper@biscayneparkfl.gov
Cc: Rmeyers@miamidade.gov; financedirector@biscayneparkfl.gov; attyhearn@aol.com; agarcia@biscayneparkfl.gov
Sent: Thu, August 12, 2010 9:51:16 AM
Subject: RE: Meeting With Finance Director

Vice Mayor, I'm responding on behalf of Manager Garcia:

As stated below staff has adjusted their schedule for today in anticipation of your visit this afternoon. The Finance Clerk is coming in late and can stay late until 6-6:30PM, and the Finance Director can stay later.

Thank you.

Maria C. Camara, Village Clerk
 Village of Biscayne Park

8/12/2010

640 NE 114th Street
Biscayne Park, FL 33161
Tel: 305 899 8000, Ext. 201
email: villageclerk@biscayneparkfl.gov

From: Bryan Cooper [mailto:bryancooper7@yahoo.com]
Sent: Thursday, August 12, 2010 7:44 AM
To: villagemanager@biscayneparkfl.gov
Cc: villageclerk@biscayneparkfl.gov; Rmeyers@miamidade.gov; financedirector@biscayneparkfl.gov; attyhearn@aol.com
Subject: Re: Meeting With Finance Director

Ms. Garcia:

I have kindly advised numerous times that the information I seek can be provided by the support staff. I'm glad that you recognize it is ok to adjust support staff schedules as necessary. I have always said Fridays were best. For months now you and your staff have wanted to know in advance the nature of my request, and often at each delay of the service, and I have declined to share my request in advance of fulfillment, per my discussions in the past with John Hearn.

Question: If I can get away early today (which I'm uncertain of), what time will Mr. Arciola and staff be available until?

If it is too late, and the support staff have already arrived early this morning, meaning they cannot stay late, please advise as soon as possible.

Bryan Cooper

From: Ana M. Garcia <villagemanager@biscayneparkfl.gov>
To: Bryan Cooper <bryancooper7@yahoo.com>
Cc: villageclerk@biscayneparkfl.gov; Rmeyers@miamidade.gov; financedirector@biscayneparkfl.gov; attyhearn@aol.com
Sent: Wed, August 11, 2010 5:54:47 PM
Subject: RE: Meeting With Finance Director

Vice Mayor,

We are here to serve you as we have served and continue to serve all other elected officials and our residents for that is your right and we respect that, and will work with you and anyone who has a records request or any request for that matter. We take pride in the personal service we provide for all our residents. Yesterday in anticipation of your visit we had adjusted schedules. In the municipal world most non exempt office personnel leaves at 5pm, but again we can adjust the Finance Clerk's schedule to accommodate your request. I can assure you there is no layering on our part, and I am sorry that you feel that way. In your initial request dated July the 30th, you requested of the Clerk that she be present as well as all staff related to any and all finance related procedures. Since we don't know what your request is, we must have both the Finance Director and Finance Clerk present. The Finance Director feels pretty comfortable but I want to ensure that we satisfy your needs and bring closure to this request to your satisfaction.

I have asked the Finance Clerk to adjust her schedule for tomorrow Thursday to come in later and leave later, and as the Finance Director has informed you he will be available also. Our Finance Director is off on Fridays, but as he communicated to you he has a dental procedure, otherwise he too would have come in.

Please let me know if Thursday you will be able to make it. Thank you.

Ana Garcia
Village Manager

8/12/2010

From: Bryan Cooper [mailto:bryancooper7@yahoo.com]
Sent: Tuesday, August 10, 2010 4:30 PM
To: Finance Director; John Hearn
Cc: villagemanager@biscayneparkfl.gov; villageclerk@biscayneparkfl.gov; Rmeyers@miamidade.gov
Subject: Re: Meeting With Finance Director

Mr. Arciola:

I cannot make it tonight; I will see if Thursday might work, however I am covering for a Dean at a conference, so it is uncertain.

A question: As stated, I have been told that the staff can operate the HTE system to fulfill my longstanding Sunshine request. Is there are reason that you need to be preset on a Friday to fulfill the request? I worry about what appears to be new layering regarding my request.

Also, Mr. Hearn, below, asked if Ms. Garcia would confirm your ability to retrieve the information. I will look for her mail providing direct answer; but if you **do not** have the ability to fully retrieve information from system, but the staff do, can we go ahead with Friday as a possibility?

Thank you.

Bryan

From: Finance Director <financedirector@biscayneparkfl.gov>
To: Bryan Cooper <bryancooper7@yahoo.com>; John Hearn <JJH@coralsprings.org>
Cc: villagemanager@biscayneparkfl.gov; villageclerk@biscayneparkfl.gov
Sent: Mon, August 9, 2010 9:16:17 AM
Subject: RE: Meeting With Finance Director

Commissioner Cooper,

I am in the office on Monday, Tuesday and Thursday until 7 PM or later, if that would help. This Friday I have an important dental appointment so I cannot meet with you on that day. Let me know if any of the other above mentioned days when I am here late will fit into your schedule.

Michael Arciola

From: Bryan Cooper [mailto:bryancooper7@yahoo.com]
Sent: Friday, August 06, 2010 8:28 AM
To: attyhearn@aol.com; villagemanager@biscayneparkfl.gov
Cc: vobparchives@biscayneparkfl.gov; financedirector@biscayneparkfl.gov
Subject: Re: Meeting With Finance Director

I received an email from Mr. Arciola to a personal account. This yahoo account is the best way to reach me Mr. Arciola.

Ms. Garcia, and Ms. Camara: Did you advise the Finance Director that I had let you know Monday through Thursday was typically very difficult for me; and that we had been trying for Fridays consistently for a long time now? He suggested this Monday or Tuesday. I guess this Friday was not possible...so another week is gone.

Monday is definitely impossible. I could try to arrange for Tuesday, but there was not mention of what hours of the late afternoon / early evening are possible. I also will need to check with my friend who would like to attend with me.

Although the Fridays keep ticking off, what about next Friday, August 13th as a possibility? (If I, and my friend, cannot get off from work early enough for Tuesday, that is.)

8/12/2010

Bryan Cooper

From: "attyhearn@aol.com" <attyhearn@aol.com>
To: bryancooper7@yahoo.com; villagemanager@biscayneparkfl.gov
Cc: vobparchives@biscayneparkfl.gov; financedirector@biscayneparkfl.gov
Sent: Thu, August 5, 2010 12:14:59 PM
Subject: Re: Meeting With Finance Director

What I envision is that you will request documents and the documents that are available within the system and can be readily retrieved can be provided to you at that time. I would ask that Ana confirm that Mr. Arciola has the ability to retrieve information from the HTE system. If not, I would ask Ana to weigh in on the best way to address your concern. Thanks.

-----Original Message-----

From: Bryan Cooper <bryancooper7@yahoo.com>
To: villagemanager@biscayneparkfl.gov ; attyhearn@aol.com
Cc: vobparchives@biscayneparkfl.gov; Finance Director <financedirector@biscayneparkfl.gov>
Sent: Wed, Aug 4, 2010 7:20 pm
Subject: Re: Meeting With Finance Director

Mr. Hearn; a few thoughts and questions (and forgive me if I am reiterating):

Per my prior conversations with staff, and emails, I was advised that Mr. Arciola does not, by himself, have the skills to work and/or retrieve information from the HTE system. If I am wrong, please correct me. If he has skill sets, what are they?

I would also appreciate knowing if "easily retrievable", as you state, will be based on his skill set with the HTE system, or the staff that I was advised had the skill set.

Hence, although I will await word on the above, I would appreciate respect for my longstanding request to public records -- that the staff who I was told are versed in the system be present when I make my requests -- at hopefully this last meeting not yet scheduled.

This will save everyone time so there is not another canceling and lack of fulfillment.

Bryan Cooper

From: Ana M. Garcia <villagemanager@biscayneparkfl.gov>
To: attyhearn@aol.com; bryancooper7@yahoo.com
Cc: vobparchives@biscayneparkfl.gov; Finance Director <financedirector@biscayneparkfl.gov>
Sent: Wed, August 4, 2010 3:49:26 PM
Subject: RE: Meeting With Finance Director

I will have our Finance Director contact Vice Mayor Cooper Tomorrow to set up a meeting ASAP. Thank you.

From: attyhearn@aol.com [mailto:attyhearn@aol.com]
Sent: Wednesday, August 04, 2010 3:32 PM
To: bryancooper7@yahoo.com; villagemanager@biscayneparkfl.gov
Cc: vobparchives@biscayneparkfl.gov
Subject: Meeting With Finance Director

8/12/2010

As I discussed at the meeting last night, and consistent with my conversations with both of you yesterday, the Manager will have the Village's Finance Director, Mike Arciola, schedule a mutually convenient time for Vice Mayor Cooper to meet and request information and items related to the Finance Department, including information from the HTE system. It is my understanding that making Mr. Arciola available will assist Vice Mayor Cooper in his seeking of certain documents which have not yet been requested. To the extent that the documents are easily retrievable, they will be immediately provided. To the extent that they are not, Mr. Arciola will retrieve them in a diligent and timely fashion. Ms. Garcia, can you please have Mr. Arciola email Vice Mayor Cooper to arrange for this meeting? I am hopeful that this will resolve this issue to the satisfaction of both parties. Thank you.

No virus found in this incoming message.

Checked by AVG - www.avg.com

Version: 9.0.851 / Virus Database: 271.1.1/3050 - Release Date: 08/04/10 00:45:00

No virus found in this incoming message.

Checked by AVG - www.avg.com

Version: 9.0.851 / Virus Database: 271.1.1/3060 - Release Date: 08/10/10 02:35:00

No virus found in this incoming message.

Checked by AVG - www.avg.com

Version: 9.0.851 / Virus Database: 271.1.1/3066 - Release Date: 08/12/10 02:34:00

No virus found in this incoming message.

Checked by AVG - www.avg.com

Version: 9.0.851 / Virus Database: 271.1.1/3066 - Release Date: 08/12/10 02:34:00

Ana M. Garcia

From: Bryan Cooper [bryancooper7@yahoo.com]
Sent: Thursday, August 12, 2010 7:35 AM
To: Finance Director
Cc: villagemanager@biscayneparkfl.gov; villageclerk@biscayneparkfl.gov; Rmeyers@miamidade.gov
Subject: Re: Meeting With Finance Director

Mr. Arciola:

As I have stated, for months...Fridays are the days I work closer to the Village Hall. If your staff can provide all the reports I need, is there a reason that you need to be there this Friday, when I've been told that the staff can provide the reports.

I'd appreciate a direct answer.

Bryan Cooper

From: Finance Director <financedirector@biscayneparkfl.gov>
To: Bryan Cooper <bryancooper7@yahoo.com>
Cc: villagemanager@biscayneparkfl.gov; villageclerk@biscayneparkfl.gov
Sent: Tue, August 10, 2010 4:47:55 PM
Subject: RE: Meeting With Finance Director

Friday is not good because I have an important dental appointment with an oral surgeon and I probably will not be in any condition to drive or talk later that day. Thursday will be best. I do know the basics of how to retrieve data from the HTE accounting system for data that I use on a regular basis but if you are going to need some out of the ordinary information or data from other years I will have my staff person available to pull those reports, she is well versed in using the system.

Please let me know if you will be coming in Thursday evening so I can make sure we are prepared to work with you.

Thank you.

Michael Arciola

From: Bryan Cooper [mailto:bryancooper7@yahoo.com]
Sent: Tuesday, August 10, 2010 4:30 PM
To: Finance Director; John Hearn
Cc: villagemanager@biscayneparkfl.gov ; villageclerk@biscayneparkfl.gov; Rmeyers@miamidade.gov
Subject: Re: Meeting With Finance Director

Mr. Arciola:

I cannot make it tonight; I will see if Thursday might work, however I am covering for a Dean at a conference, so it is uncertain.

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Also, Mr. Hearn, below, asked if Ms. Garcia would confirm your ability to retrieve the information. I will look for her mail providing direct answer; but if you **do not** have the ability to fully retrieve information from system, but the staff do, can we

go ahead with Friday as a possibility?

Thank you.

Bryan

From: Finance Director <financedirector@biscayneparkfl.gov>
To: Bryan Cooper <bryancooper7@yahoo.com>; John Hearn <JJH@coralsprings.org>
Cc: villagemanager@biscayneparkfl.gov ; villageclerk@biscayneparkfl.gov
Sent: Mon, August 9, 2010 9:16:17 AM
Subject: RE: Meeting With Finance Director

Commissioner Cooper,

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Cc: vobparchives@biscayneparkfl.gov; financedirector@biscayneparkfl.gov
Subject: Re: Meeting With Finance Director

I received an email from Mr. Arciola to a personal account. This yahoo account is the best way to reach me Mr. Arciola.

Ms. Garcia, and Ms. Camara: Did you advise the Finance Director that I had let you know Monday through Thursday was typically very difficult for me; and that we had been trying for Fridays consistently for a long time now? He suggested this Monday or Tuesday. I guess this Friday was not possible...so another week is gone.

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From: "attyhearn@aol.com" <attyhearn@aol.com>
To: bryancooper7@yahoo.com; villagemanager@biscayneparkfl.gov
Cc: vobparchives@biscayneparkfl.gov; financedirector@biscayneparkfl.gov
Sent: Thu, August 5, 2010 12:14:59 PM
Subject: Re: Meeting With Finance Director

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-----Original Message-----

8/12/2010

From: Bryan Cooper <bryancooper7@yahoo.com>
 To: villagemanager@biscayneparkfl.gov ; attyhearn@aol.com
 Cc: vobparchives@biscayneparkfl.gov; Finance Director <financedirector@biscayneparkfl.gov>
 Sent: Wed, Aug 4, 2010 7:20 pm
 Subject: Re: Meeting With Finance Director

Mr. Hearn; a few thoughts and questions (and forgive me if I am reiterating):

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Bryan Cooper

From: Ana M. Garcia <villagemanager@biscayneparkfl.gov>
To: attyhearn@aol.com; bryancooper7@yahoo.com
Cc: vobparchives@biscayneparkfl.gov; Finance Director <financedirector@biscayneparkfl.gov>
Sent: Wed, August 4, 2010 3:49:26 PM
Subject: RE: Meeting With Finance Director

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Sent: Wednesday, August 04, 2010 3:32 PM
To: bryancooper7@yahoo.com; villagemanager@biscayneparkfl.gov
Cc: vobparchives@biscayneparkfl.gov
Subject: Meeting With Finance Director

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No virus found in this incoming message.

Checked by AVG - www.avg.com

Version: 9.0.851 / Virus Database: 271.1.1/3066 - Release Date: 08/12/10 02:34:00

Ana M. Garcia

From: Bryan Cooper [bryancooper7@yahoo.com]
Sent: Friday, July 30, 2010 8:17 AM
To: Meyers, Robert (COE); attyhearn@aol.com
Cc: villagemanager@biscayneparkfl.gov; villageclerk@biscayneparkfl.gov;
 vobparchives@biscayneparkfl.gov
Subject: Re: request

Ms. Garcia, and attorneys:

I would like to know if the Finance Clerk is a salaried individual, exempt or non-exempt. For weeks, I was told her hours could and would be adjusted, and now, not. I would like management to state clearly if this is a person who is employment is tied to getting the job done, or, is it clearly an hourly position that would require overtime under State Law.

I would like from Ms. Garcia, as clear statement as to how this would disrupt Village business.

In keeping with that lack of clarity: I hereby request under Sunshine Law that I receive a statement as to the Finance Clerk's exempt or non-exempt status; thanks.

I also would like a copy of her job description; if there is not job description (as Ms. Camara believes there are none); please confirm.

I also want to ask if, John, you have ever seen the Finance staff work into the hours that I need to visit? I believe you have. They were often there and required to work late, when you and I John were meeting on other business. What has changed?

Why does what the Manger state in terms of disruption contrast with what staff say who know the HTE system?

I also want it to be clear that I now do not need Commission approval, as staff below state you advised them John. I would like clarification as to the Village attorney's interpretation of this, and the role of legal advice to suggest such blocking of access.

Bryan Cooper

From: "Meyers, Robert (COE)" <RMEYERS@miamidade.gov>
To: attyhearn@aol.com; bryancooper7@yahoo.com
Cc: villagemanager@biscayneparkfl.gov; villageclerk@biscayneparkfl.gov; vobparchives@biscayneparkfl.gov
Sent: Thu, July 29, 2010 11:07:22 AM
Subject: RE: request

Vice Mayor Cooper:

Our office lacks the legal authority to give opinions on the Florida Sunshine Law or the Florida Public Records Act, as they are state laws and our office's jurisdiction is limited to county and municipal ordinances. However, it can provide you with an informal opinion, I concur with Mr. Hearn's interpretation of the state's public records law, which is cited in his e-mail to you (listed below).

Sincerely,

8/4/2010

Robert Meyers, Executive Director
Miami-Dade Commission on Ethics and Public Trust

From: attyhearn@aol.com [mailto:attyhearn@aol.com]
Sent: Thursday, July 29, 2010 9:50 AM
To: bryancooper7@yahoo.com
Cc: Meyers, Robert (COE); villagemanager@biscayneparkfl.gov; villageclerk@biscayneparkfl.gov; vobparchives@biscayneparkfl.gov
Subject: Re: request

Bryan: To be clear, you have an absolute right to receive public records. You also do not have to put the request in writing or give advance notice - although that would obviously make it easier for staff to collect and provide those records. However, you do not have the right to require that the Finance Clerk, after her work hours, sit with you and immediately retrieve records - especially when the Manager informed me that this would disrupt the running of Village business. The Clerk has been fully informed that you are entitled to all public records. At some point, you will need to ask for the records you are looking for. I am traveling on a business trip and will be returning over the weekend. I will respond to your other emails as necessary and appropriate, or they can be addressed at Commission meetings.

-----Original Message-----

From: Bryan Cooper <bryancooper7@yahoo.com>
 To: Bryan Cooper <bryancooper7@yahoo.com>; Rmeyers@miamidade.gov; villageclerk@biscayneparkfl.gov; bcooper@biscayneparkfl.gov
 Cc: agarcia@biscayneparkfl.gov; attyhearn@aol.com
 Sent: Wed, Jul 28, 2010 9:18 pm
 Subject: Re: request

Ms. Camara:

You can send the below to the entire Commission, regarding my opening of communications with the M-D Ethics Board.

More emails will be coming.

Thanks.

Bryan

From: Bryan Cooper <bryancooper7@yahoo.com>
To: Rmeyers@miamidade.gov; villageclerk@biscayneparkfl.gov; bcooper@biscayneparkfl.gov
Cc: agarcia@biscayneparkfl.gov; attyhearn@aol.com
Sent: Wed, July 28, 2010 10:14:34 PM
Subject: Re: request

Robert Meyers, fyi:

John Hearn advised me by phone that I had the right to schedule a meeting with Village staff and make a request for information at the point of meeting, and that I did not need to give details of my request in advance.

Below, in #6, our Village staff now state that John Hearn has (after my conversation with him) advised them in direct contradiction to his advice to me. And that Commission approval is necessary.

In our phone conversation, he mentioned nothing to me about needing Commission approval for my longstanding request to access of government records under Sunshine Law in the HTE system; and in fact he stated clearly to me that it was my right to not reveal to staff my request, until the point it might be accessed when I was present, given my concerns expressed to him that the information, given the sensitivity of it, might never see the light of day otherwise.

8/4/2010

Please note there have been a number of canceled meetings and delays to my request for a meeting with staff to get a report from the HTE system; and which appear questionable as to the reasoning. Moreover, there have been statements from the Clerk that she would give me access, but preferred that they know days in advance what I was looking for. So, numerous delays, and at the same time their wanting to know what I'm looking for in advance of my picking up the information.

I have been advised by several financial staff that running reports is very easy in the HTE system; why the roadblock now? Why now saying Commission approval is necessary for my requests.

Given the precarious nature of our records retention system, and the recent statements from Village staff that our email computer systems appear to have no integrity for assuring retention of data, I am concerned, as you might understand, on numerous fronts. I have also been advised by way of documents that the HTE system is planned to be discontinued, by recommendation of the Manager.

Please see below, and let me know if you believe that this is aligned with intent of Sunshine Law. Also, in respect to #2 below.

Thanks.

Bryan Cooper

From: village clerk <villageclerk@biscayneparkfl.gov>
To: bcooper@biscayneparkfl.gov
Cc: agarcia@biscayneparkfl.gov; attyhearn@aol.com
Sent: Wed, July 28, 2010 8:01:48 PM
Subject: FW: request

Vice Mayor, since I'm going to be out of the office tomorrow (Thursday, 7/29), I wanted to let you know the following before Friday:

1. On Tuesday, 8/3, I will provide you copies of the minutes for the Code Review Board.
2. I do not have the red-lined version of the Code based on the changes agreed on by the Code Review Board. You will need to make that request at the Commission Meeting.
3. The copy of the Personnel Policy & Procedures that were adopted in April 2009 were provided to you last Friday.
4. The link to the Florida statutes on records retention is:
http://dls.dos.state.fl.us/recordsmgmt/gen_records_schedules.cfm; or you can search: State of Florida General Records Schedule GS1-SL
5. As I mentioned last Friday, there are currently no job descriptions.
6. In regards to your request to sit with the Finance Clerk on Friday afternoon and have her run reports from the HTE Accounting system, you will need to make that request before the Commission. The Manager and I consulted with Attorney Hearn and this request does not fall under the normal guidelines of a public records request and will need to be discussed by the Commission.
7. On your request to get a listing of the e-mail addresses for staff that have an e-mail, the Manager requests that I review that with the Attorney. Based on his reply I will advise.

Thank you.

Maria C. Camara, Village Clerk
 Village of Biscayne Park
 640 NE 114th Street
 Biscayne Park, FL 33161
 Tel: 305 899 8000, Ext. 201
 email: villageclerk@biscayneparkfl.gov

From: bryan cooper [<mailto:bcooper839@yahoo.com>]
Sent: Monday, July 26, 2010 7:59 AM

8/4/2010

Ana M. Garcia

From: Bryan Cooper [bryancooper7@yahoo.com]
Sent: Friday, July 30, 2010 8:25 AM
To: villageclerk@biscayneparkfl.gov; attyhearn@aol.com; bcooper@biscayneparkfl.gov
Cc: RMEYERS@miamidade.gov; villagemanager@biscayneparkfl.gov
Subject: Re: request

I need clear direction as to the hours of the day in which a Commissioner can get information on Finance.

I also hereby ask for a copy of the policy, if there is one, that shows that the Manager is not arbitrarily applying rules or restrictions of service to one Commissioner and different rules to another.

Bryan Cooper

From: village clerk <villageclerk@biscayneparkfl.gov>
To: attyhearn@aol.com; bcooper@biscayneparkfl.gov
Cc: RMEYERS@miamidade.gov; villagemanager@biscayneparkfl.gov
Sent: Thu, July 29, 2010 12:12:44 PM
Subject: RE: request

John, thank you for your e-mail response.

I know fully well that Vice Mayor has the right to recieve public records. Last Friday when he was here I asked him to provide a list of what he needed so that we could start working on it.

Thanks again.

Maria C. Camara, Village Clerk
Village of Biscayne Park
640 NE 114th Street
Biscayne Park, FL 33161
Tel: 305 899 8000, Ext. 201
email: villageclerk@biscayneparkfl.gov

From: attyhearn@aol.com [mailto:attyhearn@aol.com]
Sent: Thursday, July 29, 2010 9:50 AM
To: bryancooper7@yahoo.com
Cc: RMEYERS@miamidade.gov; villagemanager@biscayneparkfl.gov; villageclerk@biscayneparkfl.gov; vobparchives@biscayneparkfl.gov
Subject: Re: request

Bryan: To be clear, you have an absolute right to receive public records. You also do not have to put the request in writing or give advance notice - although that would obviously make it easier for staff to collect and provide those records. However, you do not have the right to require that the Finance Clerk, after her work hours, sit with you and immediately retrieve records - especially when the Manager informed me that this would disrupt the running of Village business. The Clerk has been fully informed that you are entitled to all public records. At some point, you will need to ask for the records you are looking for. I am traveling on a business trip and will be returning over the weekend. I will respond to your other emails as necessary and appropriate, or they can be addressed at Commission meetings.

8/4/2010

Ana M. Garcia

From: Bryan Cooper [bryancooper7@yahoo.com]
Sent: Friday, July 30, 2010 6:55 PM
To: villagemanager@biscayneparkfl.gov; bcooper@biscayneparkfl.gov
Cc: RMEYERS@miamidade.gov; villageclerk@biscayneparkfl.gov; attyhearn@aol.com
Subject: Re: reqesFrom

Please forward to the full Commission:

It is my understanding that requests for information under the laws of the State of Florida do not require that you be informed or have any right to regulate my access to information. Sunshine requests stand as a citizen's right, which I do not give up when I become Commissioner. Thankfully, I am pretty certain that the attorney would agree with me, that the laws of the State and access to information supersede your attempts to lessen that access in my right to communicate to the Clerk, and not you as gatekeeper of public information. And you do not have any procedures, as stated verbally to me by Ms. Camara and a witness...except those that you seem to be making up as you go along. Since there are no written procedures that you have developed, or that you had communicated to your Clerk prior to my visit last week, your actions appear to me a problem.

I would like John's comments on best practices of municipalities, and if the manager controls Sunshine requests in other cities.

Bryan Cooper

From: Ana M. Garcia <villagemanager@biscayneparkfl.gov>
To: bcooper@biscayneparkfl.gov
Cc: RMEYERS@miamidade.gov; villageclerk@biscayneparkfl.gov; attyhearn@aol.com
Sent: Fri, July 30, 2010 3:09:43 PM
Subject: RE: reqesFrom

Vice Mayor Cooper,

bcc: Full Commission

Vice Mayor Cooper: I have attached the original email that you sent to the Clerk on June 18th when you first communicated your request and I quote you "to provide me with unlimited access to all village files and records for a period of 1 hour, for my personal research in the log cabin. I ask that you be present, as well as all staff who are related to any and all finance related procedures." In this original email, I the Manager am not copied. Per our Charter, it states that neither the Commission or its members shall give orders directly to any such officer or employee, either publicly or privately, who are subordinate to the Manager. That is the way that I have always handled such requests. We are and will continue to be very accommodating to all elected officials and residents provided that proper procedures are followed. To imply that I (your manager) am applying different rules of service to one Commissioner and a different set of rules to another is simply not an accurate statement.

If you would provide us with some general description of the financial information you are requesting, we would know whether it would require the Finance Director (exempt), or the Finance Clerk (non-exempt) and/or the Manager to work on such request, meet with you and satisfy your request. Exempt employees on a regular basis stay beyond normal business hours to accommodate such requests. Thank you,

Respectfully,
 Ana M. Garcia
 Village Manager

From: Bryan Cooper [mailto:bryancooper7@yahoo.com]
Sent: Friday, July 30, 2010 8:25 AM

To: villageclerk@biscayneparkfl.gov; attyhearn@aol.com; bcooper@biscayneparkfl.gov
Cc: RMEYERS@miamidade.gov; villagemanager@biscayneparkfl.gov
Subject: Re: request

I need clear direction as to the hours of the day in which a Commissioner can get information on Finance.

I also hereby ask for a copy of the policy, if there is one, that shows that the Manager is not arbitrarily applying rules or restrictions of service to one Commissioner and different rules to another.

Bryan Cooper

From: village clerk <villageclerk@biscayneparkfl.gov>
To: attyhearn@aol.com; bcooper@biscayneparkfl.gov
Cc: RMEYERS@miamidade.gov; villagemanager@biscayneparkfl.gov
Sent: Thu, July 29, 2010 12:12:44 PM
Subject: RE: request

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Village of Biscayne Park
640 NE 114th Street
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From: attyhearn@aol.com [mailto:attyhearn@aol.com]
Sent: Thursday, July 29, 2010 9:50 AM
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Subject: Re: request

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-----Original Message-----

From: Bryan Cooper <bryancooper7@yahoo.com>
To: Bryan Cooper <bryancooper7@yahoo.com>; Rmeyers@miamidade.gov; villageclerk@biscayneparkfl.gov; bcooper@biscayneparkfl.gov
Cc: agarcia@biscayneparkfl.gov; attyhearn@aol.com
Sent: Wed, Jul 28, 2010 9:18 pm
Subject: Re: request

8/4/2010

Ms. Camara:

You can send the below to the entire Commission, regarding my opening of communications with the M-D Ethics Board.

More emails will be coming.

Thanks.

Bryan

From: Bryan Cooper <bryancooper7@yahoo.com>
To: Rmeyers@miamidade.gov; villageclerk@biscayneparkfl.gov; bcooper@biscayneparkfl.gov
Cc: agarcia@biscayneparkfl.gov; attyhearn@aol.com
Sent: Wed, July 28, 2010 10:14:34 PM
Subject: Re: request

Robert Meyers, fyi:

John Hearn advised me by phone that I had the right to schedule a meeting with Village staff and make a request for information at the point of meeting, and that I did not need to give details of my request in advance.

Below, in #6, our Village staff now state that John Hearn has (after my conversation with him) advised them in direct contradiction to his advice to me. And that Commission approval is necessary.

In our phone conversation, he mentioned nothing to me about needing Commission approval for my longstanding request to access of government records under Sunshine Law in the HTE system; and in fact he stated clearly to me that it was my right to not reveal to staff my request, until the point it might be accessed when I was present, given my concerns expressed to him that the information, given the sensitivity of it, might never see the light of day otherwise.

Please note there have been a number of canceled meetings and delays to my request for a meeting with staff to get a report from the HTE system; and which appear questionable as to the reasoning. Moreover, there have been statements from the Clerk that she would give me access, but preferred that they know days in advance what I was looking for. So, numerous delays, and at the same time their wanting to know what I'm looking for in advance of my picking up the information.

I have been advised by several financial staff that running reports is very easy in the HTE system; why the roadblock now? Why now saying Commission approval is necessary for my requests.

Given the precarious nature of our records retention system, and the recent statements from Village staff that our email computer systems appear to have no integrity for assuring retention of data, I am concerned, as you might understand, on numerous fronts. I have also been advised by way of documents that the HTE system is planned to be discontinued, by recommendation of the Manager.

Please see below, and let me know if you believe that this is aligned with intent of Sunshine Law. Also, in respect to #2 below.

Thanks.

Bryan Cooper

From: village clerk <villageclerk@biscayneparkfl.gov>
To: bcooper@biscayneparkfl.gov
Cc: agarcia@biscayneparkfl.gov; attyhearn@aol.com
Sent: Wed, July 28, 2010 8:01:48 PM
Subject: FW: request

Vice Mayor, since I'm going to be out of the office tomorrow (Thursday, 7/29), I wanted to let you know the following before Friday:

1. On Tuesday, 8/3, I will provide you copies of the minutes for the Code Review Board.

8/4/2010

2. I do not have the red-lined version of the Code based on the changes agreed on by the Code Review Board. You will need to make that request at the Commission Meeting.
3. The copy of the Personnel Policy & Procedures that were adopted in April 2009 were provided to you last Friday.
4. The link to the Florida statutes on records retention is:
http://dls.dos.state.fl.us/recordsmgmt/gen_records_schedules.cfm; or you can search: State of Florida General Records Schedule GS1-SL
5. As I mentioned last Friday, there are currently no job descriptions.
6. In regards to your request to sit with the Finance Clerk on Friday afternoon and have her run reports from the HTE Accounting system, you will need to make that request before the Commission. The Manager and I consulted with Attorney Hearn and this request does not fall under the normal guidelines of a public records request and will need to be discussed by the Commission.
7. On your request to get a listing of the e-mail addresses for staff that have an e-mail, the Manager requests that I review that with the Attorney. Based on his reply I will advise.

Thank you.

Maria C. Camara, Village Clerk
Village of Biscayne Park
640 NE 114th Street
Biscayne Park, FL 33161
Tel: 305 899 8000, Ext. 201
email: villageclerk@biscayneparkfl.gov

From: bryan cooper [<mailto:bcooper839@yahoo.com>]
Sent: Monday, July 26, 2010 7:59 AM
To: VillageClerk@BiscayneParkFl.gov
Cc: attyhearn@aol.com; vobparchives@biscayneparkfl.gov
Subject: request

Maria:

Can you please bring to the Tuesday meeting a copy of:

- 1) Minutes for Code Review Committee in binder
- 2) All red-lined copy that is completed, to date, as you said is being performed by Gage H & Commissioner Childress together.

Also, if there is electronic copy of the working red-lined version, please email to me early this week; thanks.

I know you will understand my concern when the Mayor made statements that she wanted to keep this from the public at this point and "not scare them"...and by now you probably understand my opposing view of keeping the residents fully informed while supporting full transparency.

Since I've been wanting to get this for some time now, starting with our conversations and requests months ago, I hope that there will not be any more delay on both of these related documents.

Bryan

No virus found in this incoming message.

Checked by AVG - www.avg.com

Version: 9.0.851 / Virus Database: 271.1.1/3036 - Release Date: 07/29/10 14:34:00

8/4/2010